

Women in Law: Juggling the Balls of Life

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"The law is a jealous mistress and requires long and constant courtship.

It is not to be won by trifling favors, but by lavish homage."

Statement made in 1929 by United States Supreme Court Justice Joseph Story.

Introduction:

The often bandied about quote by Justice Joseph Story to some degree typifies the life of any counsel worth his or her salt in any jurisdiction; the legal profession like so many others does not lightly accept mediocrity. In order to uphold its true tents, counsel is expected ... indeed **required** to not only work hard but also to meet and keep required standards as stipulated by the Legal Profession Act, The Legal Profession (Cannon Of Professional Ethics) Rules and other "unwritten rules" expected within the profession. The tenuous balance between living one's best life and pursuing a career in the law can be quite difficult to maintain and this can be even moreso the case for females in the profession.

The objective of this paper is two-fold; firstly we aim to trace the development of women's involvement in the world of work generally and the legal profession while looking at the legal/statutory provisions made to accommodate females within the workplace. Secondly we want to point to some of the challenges faced by females in the legal profession and also to give some practical tips to help women in the legal profession juggle the balls of life: we seek to promote wellness as a principle for individual counsel as well as to sensitize those who manage/supervise women throughout the employment spectrum of what they can do to enhance the work environment of their charges which must inevitably redound to the benefit of all parties.

PART I

Women, Employment and the Law

History of Women in Employment

In a sense women's involvement in the "workplace" began in the Garden of Eden when God spoke to both Adam and tangentially Eve to the effect that it

is by the “sweat of your brow that they would eat bread.”¹ Work was not only worth and also the means whereby they would be able to physically survive from day to day. The work began with the concept of manual labour primarily in agriculture cultivating crops and rearing livestock for subsistence. Thereafter work was also used as a modality to barter in exchange of goods and services. This has mushroomed over time into the industrial revolution when as new ways of manufacturing evolved, the concept of factories emerged thereafter expanding the scale of such operations.

In the Caribbean, the nascent world of work was in no small measure impacted by the existence of the abominable slavery regime, where employment initially took little note of notions of contract or the wage/work bargain. In these times, slaves suffered under the a de facto lawless system where their labour while valuable to the plantocracy, was treated with scant regard with respect to compensation being paid. The only differential *per se* was in terms of the small disparity between the slaves who worked the fields of the sugar plantations and those favoured few who were required to work in the great houses as “servants”. The common law contractual concept was virtually non-existent as the ‘workers’ had no legal rights since they were considered as property. Women were however also subject to other types of atrocities. While long arduous hours in the canefields were indeed commonplace for both women and men, females not only expected to do their fair share, many times with infants strapped to their backs, they were also subject to sexual abuses, either at the hands of the plantation owners/overseers and in other instances they were also forcibly used as “breeders” to enlarge the workforce.²

Prior to the 1840’s, the legal provisions prescribing work obligations were contained in Slave Codes³ that stipulated steps slave owners could take to ensure their captive workforce remained submissive, including draconian disciplinary measures such as whippings and imprisonment. Between 1834 and 1840 the formal end of slavery, laws were enacted to formalise the employer/employee relationship where labour was exchanged for lodging and supplies with minimal wages, but these laws proved inadequate in regulating the employment terms and conditions. In Jamaica the Master and Servants Act⁴ was passed, modelled largely on a UK equivalent, which substantively

¹ Genesis 3 v 19

²² See Bush, Barbara “Slave Women in Caribbean Society 1650-1838” (1990) Heineman Publishers Chapter 4 pp 23-46

³ See generally Turner, M. (2004) ‘The British Caribbean, 1823-1838 – The Transition from Slave to Free Legal Status’ p. 303 et seq . in Hay, D. Masters, Servants and Magistrates in Britain and the Empire, 1562-1955 North Carolina, US: UNC Press

⁴ Passed in 1842

only dealt with form, duration and termination of employment contracts along with payment of wages; there was no provisions made for women's needs in the workplace.

Work for women however has always been a dichotomy in that there was the "expected" domestic roles which also fell to them; an often under-appreciated and unpaid vocation without which households would not survive. Thus cooking, keeping house, doing laundry, raising children and even providing basic formal education for smaller children was all part and parcel of the lot of women from time immemorial. Invariably in many households, subsistence farming was also an integral part of women's work to supplement the earnings of men within the home. Indeed in many cases such pursuits were essentially the main source of income in matriarchal led single parent families⁵, where women became also engaged in the sale of the produce in markets and shops; essentially being self-employed.

When women began to formally enter the workforce in larger numbers, it was not so much because their worth was recognized as such; rather it really began on the basis of sheer necessity. At the outbreak of World War One, life for women was mainly tied to a life of domesticity, their places still largely in the home. While there was some advocacy⁶ the proverbial "glass ceiling" remained at ground level. But as men headed abroad to fight, women took their place "en masse" in factories, shops and offices. However with the troops' victorious return from War, most women were forced to leave their wartime roles and found themselves as "surplus" employees at work. During the course of the Second World War in the 1940's there was again a similar type of occurrence; more women were again called out to active duties to help in factories and other pursuits during the war effort. After the end of both World Wars it is submitted that things could not remain the same after women's first foray into the formal workplace; the law had to acknowledge their existence and ever so slowly but surely legislative intervention began to impact females in employment.

Another issue which confronts female workers is related to the innate nature of being a woman, and has impacted their ability to continuously participate in the workforce at particular times in their life cycle. Indeed this is both the blessing and bane, the very fundamental core of womanhood; it is our reproductive capacity. With this specific characteristic, comes various issues

⁵ See Edith Clarke; *"My Mother Who Fathered Me"* (1966) Gersham Press

⁶ Suffragettes, were campaigning vocally for change,

that vary from woman to woman, ranging from absolutely no impact to the other end of the spectrum of severe interruptions. Thus, it may mean that some women experience debilitating menstrual pain on a monthly basis such that they are unable to perform their functions at these times as well as in some cases, when female employees become pregnant they may experience health challenges throughout some or all of their pregnancy. These major well-being concerns which are unique to women, can by their nature negatively impact business operations since female team members may become unavailable to their employers possibly causing service disruptions and added costs to find replacements. It is in this context that women may advertently or inadvertently face discrimination in employment. The law should therefore be a part of a solution in tackling these possibilities if the playing field is to be level for both men and women.

The law's response: Incremental change

Life after the World Wars offered new employment opportunities for women. While their worth and capabilities to undertake various types of work had to become recognized, in many instances they were still relegated to specified occupations and vocations. Thus women were expected to be engaged in the traditional stereotypical roles, such as nurses and teachers or encouraged to take on skills such as dressmaking, beauticians or secretaries as opposed to being doctors, attorneys, or even business persons. The discourse below speaks to some legislative structures which emerged to deal with women in the workforce; while *de jure* it is evident what the law intended, it is arguable whether *de facto* the objectives have truly been achieved.

The Jamaican Constitution:

Jamaica's supreme law came into existence in 1962. While one would expect that its provisions would frontally address the issue of discrimination against women what appeared then was a mere adumbration of the concept. Thus in Chapter III, the Fundamental Rights and Freedoms Chapter stated as a general principle that;

"... every person in Jamaica is entitled to the fundamental rights and freedoms of the individual ... has the right whatever his race, place of origin, political opinion, colour, creed or **SEX** but subject to respect of the rights of and freedoms of others and for the public interest, to each and all of the following, namely;

- (a) Life, liberty, security of the person, the enjoyment of property and the **PROTECTION OF THE LAW**

- (b) Freedom of conscience, of expression and of peaceful assembly and association
- (c) Respect for his private and family⁷ (emphasis supplied)

It would therefore be true to state that while the principle may well have been implied by necessary interpretation of the provisions, it was not as pellucid as would have been valuable.⁸

It should also be noted that the pre-1962 constitutional section which speaks specifically to protection from discrimination, did not enumerate that sex or gender was a protected ground. Hence Section 24 (3) states that

“in this section, the expression “discriminatory” means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, place of origin, political opinion, colour or creed whereby persons of such description are subjected disabilities or restrictions to which person of another description are not made subject or are accorded privileges or advantages which are not accorded to other persons of another such description”

Happily however as part of a raft of Constitutional amendments enacted by the *Charter of Fundamental Rights and Freedoms (Constitutional Amendment) Act, 2011* the matter has now been frontally addressed. As such the State is charged with the obligation *inter alia* to promote universal respect for and observance of human rights and freedoms to the extent that these rights and freedoms do not prejudice the rights and freedoms of others and are guaranteed except the removal of the rights are demonstrable justified in a free and democratic society and further no law should be passed or any organ of the State should take any action that abrogates, abridges or infringes on such rights. Section 13 (3) refers to one such right as being:

(i) the right to freedom from discrimination on the ground of-

(i) being male or female;

It is submitted that this amendment firmly forms a legal foundation for female workers to pursue their rights within the workplace setting. My research has however not unearthed any local case where this provision has yet been tested; however in an analogous issue was addressed in St. Lucia with a surprising result.

⁷ Section 13

In *A.G. v. Girard and the St. Lucia Teachers' Union*⁹ the legal status of unmarried female teachers after a second pregnancy was in issue. It was held that such teachers could be lawfully dismissed under the then extant *Teaching Service Regulations*, notwithstanding a provision in a collective agreement that which prohibited such dismissal. It illustrated the failure of Commonwealth Caribbean jurists and jurisprudence to acknowledge specific human rights norms related to women. In fact, the courts refused to find that there had been a violation of the St. Lucian Constitutional protection against discrimination, holding that there was a presumption in favour of the relevant legislation, which were said to be "saved" since they were enacted before the Constitution was promulgated.

Apart from considerations concerning this narrow interpretation of rights enshrined under written Constitutions, the very existence of a statute mandating such dismissal is cause for reflection. It is indicative of the failure of the law to appreciate the inherent equality and discrimination issues arising out of maternity and pregnancy situations at work. Accordingly, Professor Rosemarie Antoine¹⁰ has argued that although there was a superficial attempt to locate gender equality in the Constitution, there was little attempt to propagate any real gender rights discourse on the subject of discrimination. This provides real food for thought.

Women (Employment of) Act

This law was enacted in 1942, with the aim of regulating the employment of women. It prohibited women from being employed in "industrial establishments"¹¹ at night¹² (meaning between 10pm to 5am). The exceptions to this embargo was where day work was interrupted by unforeseeable cause, where it was necessary to reserve raw materials which were subject to rapid deterioration, being engaged in a job that was a responsible position in management not ordinarily engaged in manual labour, the packaging of fresh fruit, nursing or caring for the sick, working in a public cinema or theatre, working in a hotel, guest house bar or club or working as a pharmacist. It should however be noted that over the years Regulations were passed to expand the industries that were excluded¹³. The Act also curtailed the total

⁹ Civil Appeals No. 12 and 13 of 1986 (January 25, 1988), Eastern Caribbean Court of Appeal.

¹⁰ Rose-Marie Belle Antoine, 'Women's right to work in the Caribbean workplace – with special reference to CEDAW and ILO Conventions' —2005. P 78.

¹¹ Section 2 – Every business or undertaking carried on for gain except a business in which members of the family of the proprietor is employed.

¹² Section 3

¹³ See Women (Employment of) Night Work Order 1961

number of hours that the female employee could work to 10 hours in any 24 hour timespan.

In many ways, this was in fact a discriminatory piece of legislation in that it limited the ability of female employees to work past specific hours. What is more the Act also empowered the Labour Minister to make regulations to restrict or prohibit employment generally, before or after childbirth, prescribe hours of work, and provide for the health and safety of women in industrial undertakings. It is submitted that this law was more honoured in the breach over the years and gratefully it was totally repealed in 2014 under the provisions of the *Employment (Flexible Work Arrangements) (Miscellaneous Provisions) Act*.

Factories Act/Regulations and Occupational Safety and Health Bill:

Promulgated in 1943, the Factories Act as the name suggests, addresses the regulation of working conditions in establishments classified as a being a Factory. While, there are a number of places that fit that description based on the Act's definition¹⁴ what is important to note that there a whole host of other establishments that fall outside the Act's remit and as such any protections offered therein are not necessarily of universal application, although they provide a good rule of thumb. For the purposes of this discourse, the Factories Regulations (1961) provides the most practical provisions made with respect to accommodations for women in a workplace setting.

Hence we see, under the Section guiding for Health and Welfare the following notable stipulations:

- Sufficient sanitary conveniences for persons employed in a factory shall be provided, maintained and kept clean; in cases where females are employed there must be a least one (1) suitable sanitary convenience for every twenty-five (25) females¹⁵
- In cases where both sexes are employed the sanitary conveniences for each sex must be separate and suitably placed¹⁶.
- There shall be provided and maintained adequate and suitable facilities for washing for each sex and shall include basins, soaps and clean towels¹⁷

¹⁴ Seer Section 2

¹⁵ Regulation 66 (a)

¹⁶ Regulation 66 (e)

¹⁷ Regulation 68

- Where females are employed a suitable restroom shall be provided, which shall be equipped with adequate and suitable facilities for resting and shall be properly maintained¹⁸
- There shall be provide and maintained adequate and suitable facilities for changing of clothing and accommodation for clothing not used during working hours; separate accommodations shall be provided for persons of each sex and shall include adequate shower bath facilities¹⁹

It should also be noted that the *Employment of Women in Factories Regulations* was also promulgated in 1961, in tandem with the *Women (Employment of) Act*. The provisions actually extend on the Factories Regulations; it stipulated that no woman must be employed continuously for more than four and a half hours (4.5) without an interval of at least half hour for a meal or rest.²⁰ It also prescribed that number of hours for overtime worked in a factory²¹, and mandated the factory operator to keep records²² of the number of hours worked by its women employees.

While somewhat commendable, these provisions could be considered as rudimentary at best. There is no doubt that there needs to be more overarching legislative provisions in which more detailed steps are taken to meet the needs of women in workplace settings. Issues such as protection of women by ensuring a safe and healthy work environment free from hazards which could potentially impair their reproductive health, for example ought properly to be examined, as well as accommodation to address women needs within the workplace when they are pregnant (if required). It is therefore hoped that the new *Occupational Safety and Health Bill* tabled in Parliament in 2017, (which is expected to repeal the Factories Act) and which is currently being reviewed by a Joint Select Committee will provide a more progressive and comprehensive approach to dealing with women's issues in the workplace.

Employment (Equal Pay for Men and Women) Act²³

The next legislative foray into the work world of women came in 1975, the UN International Year of Women with the Employment (Equal Pay for Men and

¹⁸ Regulation 69

¹⁹ Regulation 70

²⁰ Regulation 3 (1)

²¹ Regulation 4

²² Regulation 6

²³ Interestingly Dudley Thompson in the Senate debates surrounding the passage of the Employment (Equal Pay for Men and Women) Act in 1975, was of the view that "Section 13 of the Constitution... a women is entitled to fundamental rights and freedoms but it has not been expressed that equality of remuneration is a fundamental right under the Constitution. We hope to bring it to life by law"

Women) Act. The Law provides that no employer shall by failing to pay equal pay for equal work discriminate between male and female employees employed in the same establishment.²⁴ Equal pay is defined as a rate or a scale of remuneration for work, in which there is no element of differentiation between male employees and female employees based on the sex of the employees;²⁵

Where an employer is convicted of this offence the Court may order him to pay to any employee in relation to whom the offence was committed such sums as appear due to that employee up to a maximum of (six) 6 years in arrears.²⁶ The law provides that an employee cannot contract out of the Act's provision,²⁷ this in a bid to protect them from themselves should they feel constrained to accept the discriminatory action in the desperate search for work. As such the acquiescence by an employee of remuneration in contravention of the provisions of Section 3 is not an acceptable defence to any action by that employee to recover remuneration at a different rate as provided for in this Act or a bar to any proceedings under this Act.²⁸ In any prosecution of a person for a contravention of the Act the burden of proof rest with the employer that he has paid equal pay for equal work.²⁹

"Equal work" is defined as work performed for one employer by male and female employees alike in which:

- The duties, responsibilities or services to be performed are similar or substantially similar in kind, quality and amount;
- the conditions under which such work is to be performed are similar or substantially similar;
- similar or substantially similar qualifications, degrees of skill, effort and responsibility are required; and
- the differences (if any) between the duties of male and female employees are not of practical importance in relation to terms and conditions of employment or do not occur frequently;

While Jamaica has implemented this law it does not however meet the requirements of international standards on the subject; in fact as far back as 1997 the International Labour Organisation (ILO) has been indicating to the

²⁴ Section 3(1)- breach in respect of any employee shall be guilty of an offence. A fine of \$200.00 is payable and \$20 for each successive day the offence continues

²⁵ Section 2

²⁶ Section 4

²⁷ Section 6

²⁸ Ibid

²⁹ Section 7

government that the Act does not include the concept of “work of equal value” as required by the Convention. The protection under the current law is narrower than the protection contained in the ILO *Equal Remuneration Convention, 1951 (No. 100)* in that it is limited to requiring the payment of equal remuneration for equal work. The concept of “work of equal value” is fundamental to the promotion and achievement of equal pay between men and women in employment and to reducing the gender pay gap.

And the Gender Pay Gap in Jamaica appears to be real! A 2015 Gleaner report³⁰ showed that women in Jamaica earn 60 per cent of their male counterparts' pay, which, alongside other disparities, has contributed to the country's fall in the rankings to 65 in the Global Gender Gap Report 2015. For every \$100 made by a man in Jamaica, a woman earns around \$60 on average. The overall rank of 65 equates to one of the worst in the Caribbean. Barbados topped the region at 24, Cuba at 29 and Trinidad & Tobago at 46. Iceland led the list of 145 countries analysed in the report published late November by the World Economic Forum (WEFORUM), a non-aligned Europe-based intellectual group. The matter does not appear to have improved as in 2018 our colleague and former President of the Jamaica Bar Association (JamBar) Sherry Ann McGregor³¹ also wrote on the issue in the Gleaner. She states that

“...In Jamaica, 80 per cent of graduates are women, up from 56 per cent in 2009....Jamaica has the highest proportion of women managers globally at 59.3 per cent³², the UK is 41st with 34.2 per cent. Basically, the best-qualified people getting the senior jobs were predominantly women. However, while women are clearly running Jamaica, men are still leading it.... Women made up 17.4 per cent of board directors of the 53 companies listed on the Jamaica Stock Exchange in 2012, with 10 of the companies having no women on their boards at all.”

Perhaps an even further very telling illustration of just how (un)important or well used this law is, remains the fact that my research has not shown that there have been any actions brought under the Act and that it has never been amended in its 43 years existence, with miniscule fines and penalties still

³⁰ Steven Jackson “Jamaica Pay Gap Worsens, Women Earn 60% Of Male Salary” Jamaica Daily Gleaner Published: Wednesday | December 9, 2015

³¹ “Is The Equal Pay Gap Real?” Daily Gleaner Published: Monday December 17, 2018

³² <http://www.jamaicaobserver.com/news/Jamaica-has-highest-percentage-of-women-managers-globally---ILO-report> Accessed February 13, 2019 (published January 12, 2015)

transcendent.³³ While the Act makes provision for the employees to keep records the Minister has not given a guideline as to what these records should contain and further there is no provision in the law which mandates that the employer must publish the various salaries which is what would be the base for any claim. It is then little wonder that in a 2009 Gleaner Article³⁴ a Ministry of Labour Officer stated that enforcement of the Equal Pay Act “was a waste of time”. This declaration was no doubt from my experience as a former Legal Officer at the Ministry just a vent of frustration by that official as he noted:

"We do not have one million people working in the department. We are dealing with the things which are affecting people now, including keeping their jobs - sudden dismissals and underpayment for work done," said Michael Kennedy, Director of the Working Conditions Unit within the Ministry of Labour and Social Security. We do not have time to waste."

It is indeed sad that this decade old comment, echoes one legislator premonition when the Act itself was being debated in 1975;

"...unless the Ministry is going to be assisted with the adequate provisions for staff to police these various legislations ...it is nothing but a face card to pass them here and let them rest in files".

This is arguably what has happened with the *Equal Pay Act*. It remains to be seen if this law will ever really play its intended role or it will continue to be a “face card” perpetuating the “women are the weaker sex” discourse.

Maternity Leave Act:

This Act made its entrance into the Jamaican landscape in 1979 the same year that the United Nations adopted the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)³⁵, UN General Assembly. It constitutes a welcome addition to the lexis of protective legislation for women, and is perhaps the most well-known of the laws related to women in Jamaica. Before its enactment, women in the workplace had no guarantee that upon undertaking what must surely be considered as compulsory leave to give birth

³³ Section 6 - No employer shall dismiss or otherwise discriminate against any person because that person has made a complaint or given evidence or assisted in any way in respect of the initiation or prosecution of a complaint or other proceeding under this Act Breach of provision – Fine \$300.00 or six months imprisonment;

Section 8 - Failure to keep records is an offence : Fine \$200 and \$20.00 for each day offence continues

³⁴ Avia Collinder, “Equal-pay law ineffective and unpoliced - Enforcement a 'waste of time', says labour ministry” Jamaica Gleaner Published: Friday April 24, 2009

³⁵ CEDAW , is often described as an international bill of rights for women. Consisting of a preamble and 30 articles, it defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination.

to her child, that she would be paid during the period that she would be off at work, that she would have a work to return to and even if she were to return her years of seniority and benefits were also not guaranteed. It was in those periods that kudos had to be given to the trade union movement that paved the way for legislation negotiating these terms into most of their collective labour agreements with employers.

Pursuant to Section 3 of the Act, a female Jamaican employee is therefore entitled to paid maternity leave if she satisfies prescribed conditions. These conditions are:

- She must have been continuously employed by her employer for a period of not less than 52 weeks at the date on which her absence begins³⁶
- She must inform the employer that she wishes to be absent from work wholly or partly because of her pregnancy or confinement and that she intends to return to work with the employer³⁷
- She must provide a Medical Certificate from a registered medical practitioner if the employer requests one. This Certificate must state that it is necessary for the worker to be absent from work wholly or partly because of her pregnancy or confinement³⁸
- She must not be less than 18 years of age on the first day of the eleventh week before the expected week of confinement (the date the baby is due to be born). This practically works out to approximately the 5th month of pregnancy

It must be recognized that some employers may want to penalize a woman on the basis of her pregnancy. The Maternity Act seeks to protect women from such a course of action so that if an employer dismisses a woman without reasonable cause, wholly or partly because of her pregnancy, this is a criminal offence.³⁹ An employer who refuses to permit a woman to return to work will be treated as having terminated the contract of employment without cause on the grounds of pregnancy.⁴⁰ Women are also protected if a redundancy

³⁶ Section 3(1) (b).

³⁷ Section 3 (1) (a).

³⁸ Section 3 (1) (c).

³⁹ Section 7 (2)

⁴⁰ Section 7(3).

situation occurs while they are on maternity leave, as they must be allowed to return to work and alternative employment sought for her⁴¹.

Interestingly in the only local case I have come across the Industrial Disputes Tribunal (IDT) had to consider this issue in the recent case of *Neveast Supplies Limited v Karma-Gaye Williams*.⁴² Here Ms. Williams was employed in August 7, 2012 and later appointed in the capacity of In-House Sales Representative and Drawing Technician. She proceeded on 3 months Maternity Leave on January 10, 2014 to end on April 9, 2014; however she was invited to a meeting on March 25, 2014 where she was given a dismissal letter (and asked to exit through the back door), purportedly because the “the economic conditions in the industry resulted in slow sales”. In deciding that the employee was unjustifiably dismissed, the IDT considered that not less than 2 months after her termination, the same job was publicly advertised. They also examine MLA provision relating to the employee’s right to return to work, and they accepted her testimony that she had advised the employer that she would return. They accepted there was a clear breach of the MLA and awarded her compensation in the amount of \$1,750,000.00.

The provisions are however in some ways limited; there is only 8 weeks’ pay mandated during the period⁴³ although there is an additional 4 weeks period of unpaid leave⁴⁴. The Jamaican statute does not meet the minimum standard recommended by the International Labour Organization (ILO) which is 14 weeks⁴⁵ paid time off with a compulsory period and 6 week compulsory period after childbirth during which women are not to be allowed to work. Further the female employee may not be able to access maternity leave with pay if she has her “quiver full” of more than 3 children while working with the same employer⁴⁶. Another minus with the law is that a woman will lose her right to return to work unless she serves on her employer a notice that states the day on which she proposes to return to work. This Notice has to be served on the employer at least three weeks before the day on which she proposes to return.⁴⁷ Also there is some degree of discrimination with respect to Domestic

⁴¹ Section 4 (5); with condition: The new job must be suitable and appropriate for her to do; The provisions as to capacity and place must not be less favourable than the previous job; Her seniority, pension rights must be preserved (Section 4(6)) ; If these provisions have been complied with and redundancy is still in issue she should be treated as being continuously employed up to the date of her slated return to work and entitled to redundancy pay as prescribed under the ETRPA (Section 4(7))

⁴² IDT 2/2015 (unreported) delivered November 3, 2016

⁴³ Section 5

⁴⁴ Section 5

⁴⁵ ILO’s Maternity Protection Conventions (C183,191)

⁴⁶ Section 5 (2).

⁴⁷ Section 4 (3) (b).

Workers as they are covered under the *National Insurance Act* where they receive the 8 weeks pay (if qualified) based on the current rate of the minimum wage⁴⁸. The challenge here is that there is no benefit to receive if the employee never contributed to the National Insurance Scheme (NIS) which many do not because it is by way of a stamp card and many work in high degrees of informality.

As with the Equal Pay, the Maternity Leave Act has also never been amended, thus the fines and penalties are virtually obsolete, with the most egregious fine being \$J1,000.00 or 6 months imprisonment for dismissal of an employee on the grounds of pregnancy.⁴⁹ The data from the Ministry of Labour also shows a paucity of complaints for breach of the Act, which while it could possibly be because there are no challenges, it is submitted is unlikely. The fact is during pregnancy females are more likely to be concerned with their own health and that of their unborn child and many times decline to push such complaints. While like many other labour legislation the Maternity Leave Act constitutes a floor of rights and not a ceiling, it proves challenging for some employers to meet the minimum requirements let alone surpass same. It must be remembered that this is a direct cost to the employer and in cases where they have to employ replacement this would mean they are salary costs are doubled. Perhaps one way to deal with this challenge would be for the government to expand the NIS to provide the payment of the benefit to a all employees, or offer a tax rebate to employers who do so to encourage compliance in the best interest of all parties.

Other Countries via legislation to address working women

There have been some progressive moves in some other countries with respect to women's issues in the workplace.

Menstrual Leave:

In Japan and South Korea Indonesia, Vietnam, South Korea, Taiwan and China are allowed to request days off work as "menstrual leave"⁵⁰. It should be noted that Italy⁵¹ was the first European country to actively consider legislation for paid Menstrual leave- MPs in the country debated legislation which would see

⁴⁸ Section 5 (5)

⁴⁹ Section 7 (2)

⁵⁰ <https://edition.cnn.com/2018/10/03/health/period-leave-australia-explainer-intl/index.html> accessed February 13, 2019

⁵¹ <https://www.konbini.com/en/lifestyle/italy-first-european-country-allow-paid-period-leave> Accessed February 13, 2019

ladies who suffer from dysmenorrhea, a condition that makes periods extremely painful, free to have three days of paid leave every month. The legislation did not pass, but the matter is now in the open for constructive discussion⁵². It is indeed a controversial topic. One writer was of the view that "...the reason the concept of 'menstrual leave' is provocative is the broader context of the society we live in -- a society characterized by huge gender inequalities, where women earn less, are perceived as less capable and, in particular when menstruating, are seen as 'hysterical,' not trustworthy and unfit for decision-making."⁵³ .it was also thought that while these policies may be well-intentioned, they risk playing right into stereotypes of labeling women as needing extra protection and extra time off, which in turn might reinforce biases in hiring, promotion and compensation. What we really need to work on is challenging these prejudices, but we shouldn't expect the women who are confident enough to take menstrual leave to challenge these perceptions on their own.

Breast feeding in public/Paid breastfeeding breaks in workplaces:

This is also another controversial topic: In Australian Federal Law breastfeeding is a right, not a privilege⁵⁴. Under the federal Sex Discrimination Act 1984 it is illegal in Australia to discriminate against a person either directly or indirectly on the grounds of breastfeeding. Direct discrimination happens when a person treats someone less favourably than another person. For example, it is discriminatory for a waiter to decline to serve a patron who is breastfeeding. Indirect discrimination happens when an apparently neutral condition has the effect of disadvantaging a particular group, in this case women who are breastfeeding. For example, an employer may impose a requirement on all employees that they must not make any breaks for set periods during the day under any circumstances. Such a condition would particularly disadvantage women who need to express milk.

The practice is legal in the Philippines⁵⁵ and Taiwan.⁵⁶ In the UK Breastfeeding in public (restaurants, cafes, libraries etc.) is protected under the Sex Discrimination Act 1975 under the provision of goods, facilities and services section. If the child is under six months old, the mother has additional protection under a 2008 amendment to the act which protects maternity rights. This is superseded by the Equality Act 2010 which clarifies that a

⁵² <https://www.theguardian.com/commentisfree/2018/jun/28/menstrual-leave-period-taboo-work-reform-women-health> Accessed February 13, 2019.

⁵³ Ibid

⁵⁴ See <https://www.breastfeeding.asn.au/bf-info/breastfeeding-and-law/legalright> Accessed February 22, 2019

⁵⁵ Expanded Breastfeeding Promotion Act of 2009 and the Milk Code of the Philippines (Executive Order 51).

⁵⁶ November 2010 the Public Breastfeeding Act

business must not discriminate against a woman who is breastfeeding a child of any age in a public place. Her companion(s) are also protected by this Act.

In the United States, The Federal Break Time for Nursing Mothers⁵⁷ law requires employers covered by the Fair Labor Standards Act (FLSA) to provide basic accommodations for breastfeeding mothers at work. These accommodations include time for women to express milk and a private space that is not a bathroom each time they need to pump. The law does not require employers to pay women for breaks needed to express milk. However, the law says that if paid breaks are provided to all employees, then those breaks must continue to be paid if nursing moms use them to pump at work. If women need extra time beyond the standard paid break time, the employer might not pay you for that extra time. But if the woman is covered under FLSA, the employer is required to give you the unpaid break time you need to express milk.

Under the Canadian Charter of Rights and Freedoms women are protected against discrimination, but Canada was one of the only countries that did not have paid breastfeeding breaks. Although over 26% of mothers' breastfeed, many of them are forced to stop due to work restrictions.

Women in the Legal Profession:

Sex Disqualification (Removal) Act:

In the United Kingdom, *The Sex Disqualification (Removal) Act* of 1919 made it illegal to exclude/disqualify women from jobs because of their gender or by marriage. Its objective was to remove the previously extant policy that women could not;

“...exercise any public function, or from being appointed to or holding any civil or judicial office or post, from entering or assuming or carrying on any civil profession or vocation or for admission to any incorporated society ... exempted by sex from liability to serve as a juror.”⁵⁸

The archaic nature of the existing circumstances, also became apparent based on the fact that the Act also took the opportunity to stipulate the “entitlement” of women to

⁵⁷ <https://www.womenshealth.gov/supporting-nursing-moms-work/what-law-says-about-breastfeeding-and-work/what-breastfeeding-employees> Accessed February 24, 2019

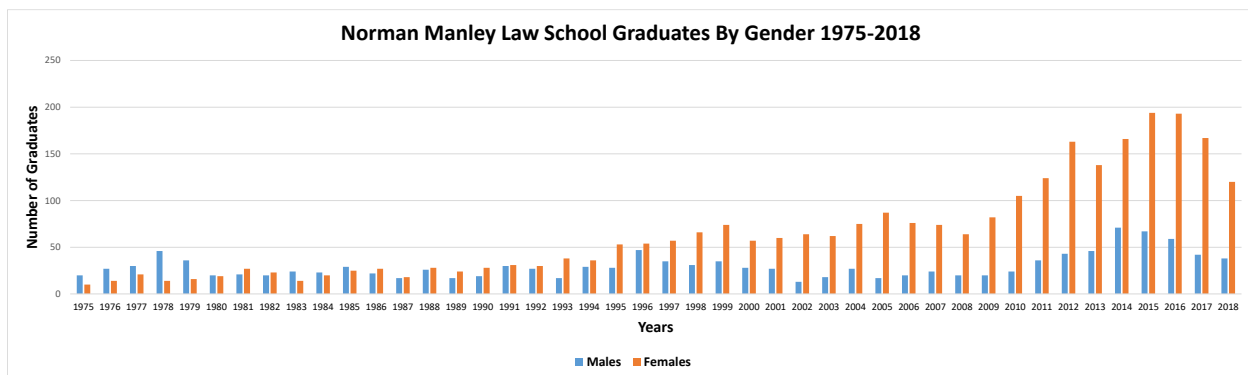
⁵⁸ Section 1

“...be admitted and enrolled as a solicitor after serving under articles for three (3) years only if she has taken such a university degree as would have entitled her had she been a man, or if she had been admitted to and passed the final examination and kept under the conditions required of women by the university, the period of residence necessary for a man to obtain a degree at any university which did not at the time the examination was passed did not admit women to degrees.”⁵⁹ –

The Act however seems to give with the right hand and take with the left, because it goes on to indicate that “nothing in the statutes or charter of any university shall be deemed to preclude the authorities of any university, from making any provision that it thinks for the admission of women into its membership, ...or to any degree, right, or privilege therein”⁶⁰

A similarly named legislation was also enacted in Jamaica in 1944 and still remains on the books. While the Jamaican version did not speak specifically to women’s entitlement to be admitted and enrolled as solicitors, it is otherwise a virtual blueprint of the UK statute. It is submitted that the statute served to provide opportunities to females which previously never existed, especially with respect of holding judicial office or being employed in the public service.

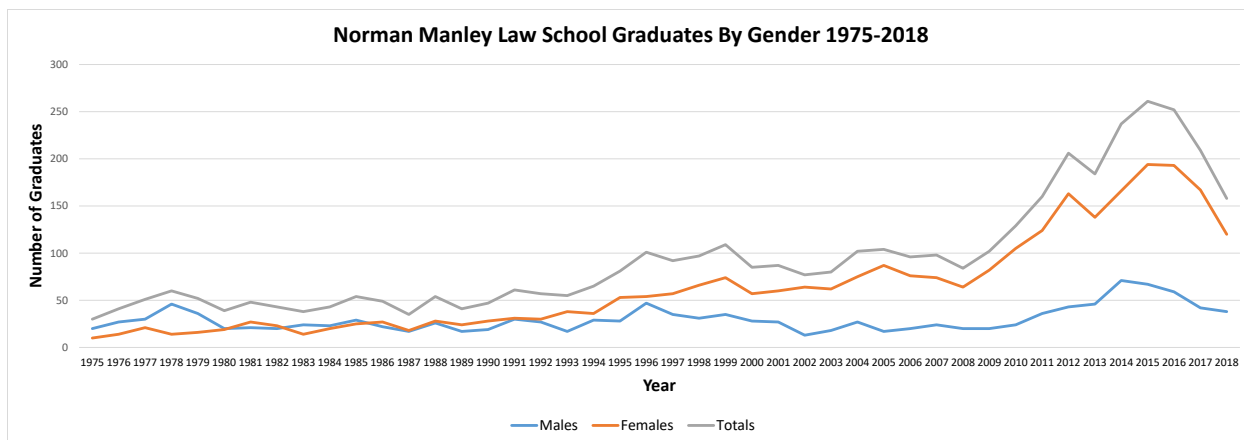
For the purposes of this paper, it is good to take a look at the numerical representation of females in the legal field. Starting at the Norman Manley Law School (NMLS) over its forty-three (43) year history, there has been a dramatic change not just in the increased number of graduates, but also the ratio of men to women as is illustrated in the charts below:



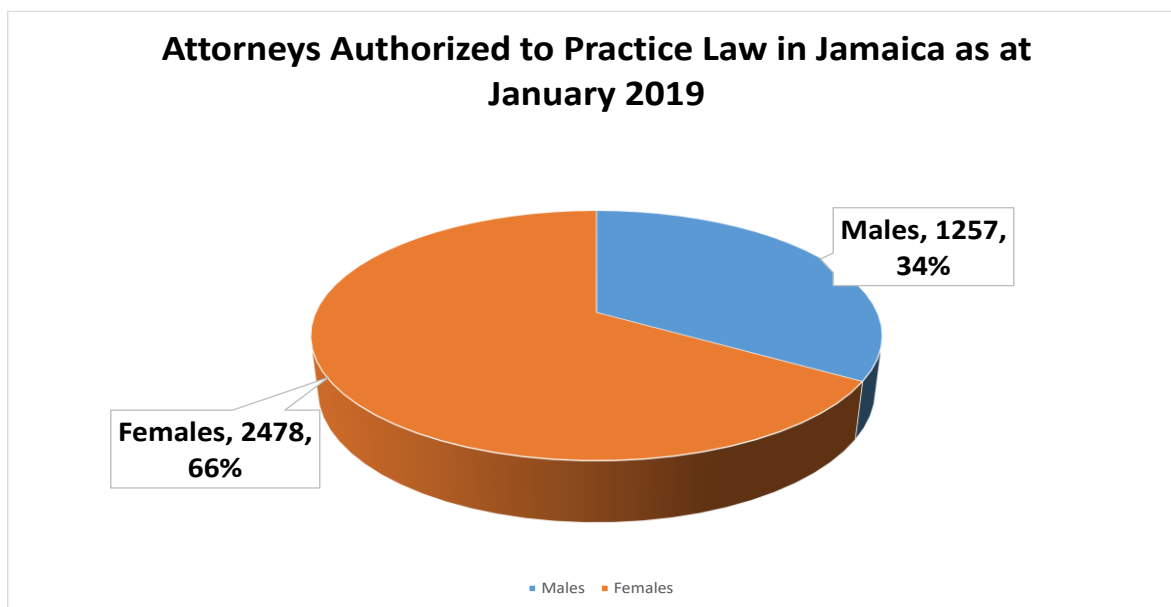
The graph below also shows the trend over the years by gender differentiation:

⁵⁹ Section 2

⁶⁰ Section 3



With this proportionate of male vs. female graduates, it is clear therefore that there would have to be a commensurate ratio of practicing attorneys in the jurisdiction as is illustrated in the chart below:



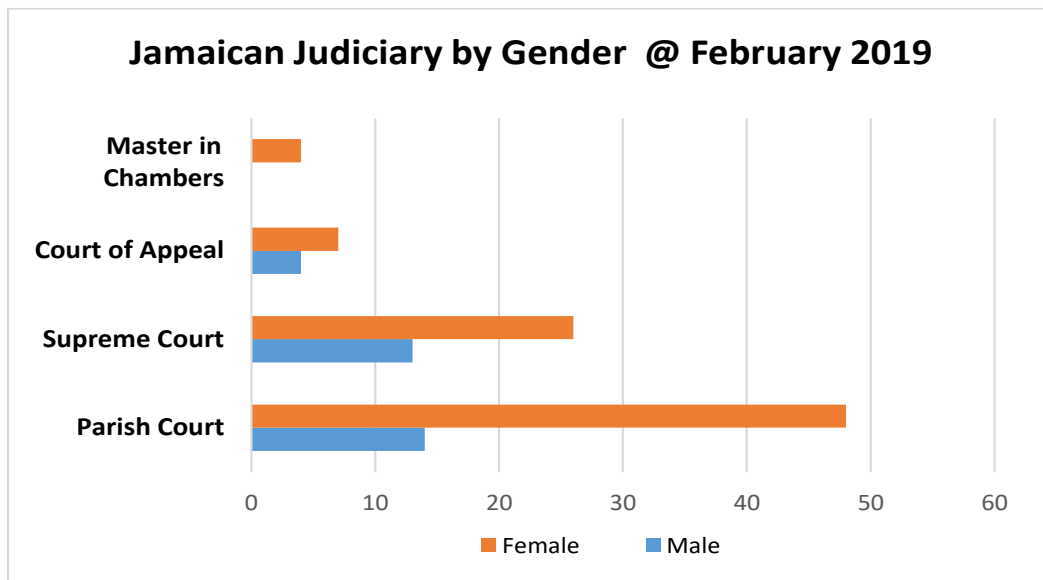
Women in the Judiciary:

As noted previously, the restriction on women serving in judicial capacities was lifted in 1944 with the passage of the Sex Disqualification (Removal) Act. Yet it took time for women to fully enter and rise through the judicial ranks. In her Article "*Women Workers and the Law*"⁶¹ Millicent Rickman indicated that the first female Resident Magistrate was appointed in 1956. In 1975, the same year that the NMLS graduated its first batch of attorneys-at-law there were a total of 27 Resident Magistrates 11 of which were women. There were a total of 20 Supreme Court Judges and Court of Appeal and at that time only

⁶¹ Jamaica Law Journal October 1975; page 54

1 was sitting in either court and even then in an acting capacity at the Supreme Court level.

Fast forward to 2019 we have 62 parish judges; 48 women and 14 men. In the Supreme Court a total of 39 judges 26 of whom are women and 13 men (the Chief Justice is male). All four Masters in Chambers are females. In the Court of Appeal there is a complement of 11 judges; 7 women and 4 men (the President is male). See Chart below:



To date we have had a female chief justice, a female solicitor general and a female DPP, a female prime Minister and a female (acting) President of the Court of Appeal. We have indeed come a far way!

In the modern technological era, while the manual aspect of work has somewhat moved to the background, there is nevertheless the very real threat that work can overtake other aspects of life. Now these endeavours are not limited to an office, a shop, a factory or some other facility, but rather it has become invasive with many feeling electronically leashed by, beepers, cell phones and computers. Perhaps the way to go is to use these devices as a tool to make life easier as a working woman as opposed to looking at it as a burden; let us explore all possibilities!!

PART II

Work-Life Balance for Women in Law

The first part of this presentation would have shown that the protection for female workers (inclusive of lawyers) in local legislation is illusory at worse and inadequate at best. It is fair to say that outside of Maternity Leave entitlement and the little known or utilized *Equal Pay Act* there is not much else by way of legislative protection targeting the specific needs of women. In light of the statistical data shared previously, which confirms that currently there are more women than men employed in the legal profession, it is therefore apparent that our wellness is up to us and it is too important to leave to chance.

Even outside of any studies on the subject we know that our profession is one of the most demanding of all. In accepting a retainer lawyers immediately assume the client's "problem" to be resolved and bringing the matter to resolution with the associated stresses of so doing has a personal cost.

Additionally as one writer Signe Dayhoffe puts it;

"...female lawyers are not only expected to juggle job, home, and family but also strive for billable-hours success in their firms. Being competent, effective, and productive is not sufficient, as women are also expected to emulate the male workaholic model: Do whatever the job requires then keep going that extra mile or two. The assumption is that if a woman lawyer is serious about her job, she too will strive to do the work of two people and invest time and energy in the company as if it were her own enterprise."

Without mind-fullness there is much breeding ground for ill health beginning with "remarkable" medical test results. This is particularly so in a profession where historically hard work is promoted and respected over wellness.

The 2016 COLAP and Hazelden Betty Ford Foundation study on mental health and substance abuse disorders amongst lawyers surveying nearly 13,000 practicing attorneys in the USA found the following:

- 21-36% of lawyers qualify as problem drinkers
- Approximately 28% of lawyers are struggling with some level of depression
- Approximately 19% are struggling with anxiety
- Younger lawyers in their first 10 years of practice and those working in private firms experience the highest rates of problem

drinking and depression, which represents a shift from earlier research

Whilst from our research there is no equivalent local study in Jamaica we have enough anecdotal information concerning health challenges [some resulting in deaths amongst our colleagues] not to discount the relevance of a conversation about the wellness of women in the Law and indeed across the board.

In another 2016 study of Well-Being among Law Students with 3300 participants it was found that:

- 17% of law students experienced some level of depression
- 14% experienced severe anxiety
- 43% reported binge drinking at least once in the prior two weeks

There is therefore evidence to suggest that the health of “lawyers” can begin to languish even prior to graduation.

Even if as women we do not identify with depression, substance abuse and anxiety the question is as women in the legal profession are we thriving in well-being?

Faced with the findings from these two American Bar Association Sponsored studies the ABA created a national task force to address lawyer well-being. In *The Path to Lawyer Well-Being: Practical Recommendations for Positive Change* (the “Report”), the task force proposed a slate of recommendations for law firms, law schools, regulators, the judiciary, bar associations and professional liability carriers.

The Report’s recommendations are intended to address a legal industry in the United States which the Task Force describes as “at a crossroads” and subjected to a “level of toxicity that has allowed mental health and substance use disorders to fester among our colleagues.”⁶² Even if we believe that this description is not completely applicable in the legal profession it is suggested that it is important to have this discussion prior to the profession getting there.

What is well-being and why is it important?

The Report defines well-being as :

⁶² Bree Buchanan & James Coyle, Cover letter to “The Path to Lawyer Well-Being: Practical Recommendations for Positive Change Report” American Bar Association August 14, 2017.

"...a continuous process toward thriving across all life dimensions,"
(emphasis supplied).

The Report identifies six well-being dimensions:

- *Emotional (recognizing the importance of emotions and developing flexibility in how and when emotions are expressed)*
- *Occupational (cultivating personal satisfaction, growth and enrichment in your work)*
- *Intellectual (engaging in continuous learning and challenging activities that promote ongoing development)*
- *Spiritual (developing meaning and purpose in life)*
- *Physical (striving for regular physical activity, good nutrition, sufficient sleep and recovery)*
- *Social (fostering a sense of connection, belonging and a well-developed support network)*

In fact there is recognition in various forms that Lawyer well-being is part of a lawyer's ethical duty of competence. The State of California has gone as far as to define competence in its rules of professional conduct to include the "mental, emotional and physical ability reasonably necessary...to do the client's work"⁶³

The Heading to Canon IV of our own Legal Profession (Canons of Professional Ethics) Rules reads:

"An attorney shall act in the best interests of his client and represent him honestly, competently and zealously within the Bounds of the Law...."

The definition of competence accepted by the American Bar Association and the American Law Institute from as far back as 1991 reads as follows:

- "Legal competence is measured by the extent to which an Attorney*
- *(A) is specifically knowledgeable about the fields of law in which he or she practices,*
 - *(B) performs the techniques of such practice with skill,*
 - *(C) manages such practice efficiently,*
 - *(D) identifies issues beyond his or her competence relevant to the matter undertaken, bringing these to the client's attention,*
 - *(E) properly prepares and carries through the matter undertaken and*

⁶³ Cal Prof. Conduct R. 3-110.

- (F) is **intellectually, emotionally and physically capable**".
(emphasis supplied)

It is therefore suggested for our consideration that we must function with the awareness that to be competent we must also be healthy. As a practitioner for 23 years I can attest to the relevance of all six well-being dimensions. It must also be apparent from the dimensions that achieving well-being involves a lot of juggling to achieve the delicate balance across all life dimensions.

Bryan Dyson, then the President and CEO of Coca-Cola Enterprises in delivering a commencement speech at Georgia Tech several years ago put it thus:

"Imagine life as a game in which you are juggling some five balls in the air. You name them - work, family, health, friends and spirit - and you're keeping all of these in the air. You will soon understand that work is a rubber ball. If you drop it, it will bounce back. But the other four balls - family, health, friends and spirit - are made of glass. If you drop one of these, they will be irrevocably scuffed, marked, nicked, damaged or even shattered. They will never be the same. You must understand that and strive for balance in your life."

As we go through this presentation do a mental check as to where you are across these six dimensions of well-being and the 5 balls you are juggling daily in your life.

Focus on the high achieving woman in all of us:

In a 2012 Survey for the Legal Profession Assistance Conference of the Canadian Bar Association, 96% of women lawyers surveyed felt that stress and or burnout are the most prevalent health and wellness issues they face. Depression was found to be a prevalent issue among 55% of the lawyers surveyed.

In her online article "High Achieving Women and Burnout" Paula Davis Laack⁶⁴ states:

"High-achieving women everywhere are maxed out, addicted to being busy, and overwhelmed. Keeping busy at all costs is the cultural status quo, but the drive to do more is impacting our families, our work, and our health. The result of this busyness is not only a lack of time, but also exhaustion, anxiety, guilt, fear, social comparison, inauthenticity and physical illness".

⁶⁴ <https://www.pauladavislaack.com/> Accessed February 22, 2019

In fact her own experience is the price of crazy busy as the constant drive to achieve and push to fill her plate with degrees, accomplishments, board positions, awards, and “things to do,” led her to burnout during the last year of her law practice. She suggests that the so-called mid-life crisis is a thing of the past as burnout is happening a lot sooner in life and is hitting women especially hard.

According to Dayhoff Burnout symptoms for women include fatigue, working harder but accomplishing less, boredom, cynicism, feeling sad, irritable, detached, joyless, experiencing psychosomatic complaints such as headaches and intestinal distress, and deterioration of interpersonal relationships. Of course, men have long suffered the fallout of workaholicism: High blood pressure, high cholesterol, heart attacks, ulcers, colitis, and depression.

Psychologist Barbara White described the four broad career stages that women pass through as follows:

- Early career development
- Early 30’s transition
- Settling down – Late 30’s transition
- Achievement and maintenance

Though not unique to women Laack⁶⁵ suggests these stages are pivot points for women and burnout often appears at one or more of these pivot points. In their late 20’s and early 30’s many women neglect their personal lives and self-care because they are busy being busy and driven. At the same time many women want to build long-term relationships and start families. In their late 30’s and beyond, other women burn out realizing that they’ve devoted many years to a career that is no longer fulfilling and are looking to find more meaning and purpose. This might mean re-crafting an existing job, finding vitality again through a hobby, or changing careers altogether.

Can we identify with Burnout? My Experience

In the last four years I have felt suffocated by my law practice and the job of serving people whilst solving their problems which I love. Balancing all the balls of running a business, meeting client needs, meeting the demands of being spouse, Mommy etc. [all roles I take seriously and want to succeed in] almost did me in so much so that I know only God carried me through those days. I was blessed to have my family, sisters in life and the law to call upon for a prayer, work advice and though I did not end up in the emergency room

⁶⁵ Ibid

I know that after putting in more structure in my business I am only now emerging from my own form of burnout.

Are the pressures greater for women in the Law?

“Arguably to succeed women have had to become the very antithesis of who they were made to be to” is the opinion of one nameless professional woman. While you ponder that..... Do women put themselves under greater pressure to succeed than men?

Laack⁶⁶ suggests that women are victims of burnout and I would say health challenges because women ascribe to beliefs that keep us stuck and overwhelmed. She suggests that avoiding burnout requires that women be their most authentic self which requires us to confront the beliefs and mindsets that are not working.

She offers the following as some of the beliefs:

- ** I have to achieve more
- ** Good mothers are/do/don't _____ (fill in the blank – always home to cook dinner; must put their kids to bed every night; don't leave their kids at daycare, etc.)
- ** I can handle it all on my own
- ** It's right to put others first; I'll worry about myself later
- ** I have to be perfect
- ** I can't be perceived as weak

Does any of this sound familiar? If so what can we as women do to address it?

Prescriptions for wellness:

In order to build well-being across the six well-being dimensions Laack suggests some specific strategies all stakeholders in the legal profession can follow and implement:

Acknowledge the problems and take responsibility:

- ✓ The profession can't solve a problem it isn't willing to acknowledge. Other industries cite this as an important starting point. This is an acknowledged critical first step to solving the problem.

⁶⁶ Ibid

Leaders should demonstrate a personal commitment to well-being.

- ✓ Any type of wide-scale change requires buy-in and role modeling from leadership. Leaders to include Heads of Chambers/Firms should be encouraged to talk about ways they demonstrate well-being in their own lives. How you carry yourself and your weight speaks volumes about your wellness.

Facilitate, destigmatize and encourage help-seeking behaviors.

- ✓ This is key but many women may refuse to share their struggles because of being singled out and identified as the “weak one.” On her own experience with burnout Laack says this mindset is unhelpful as she could have received help much sooner, but instead waited until she was getting near daily panic attacks before she let persons in.

Foster collegiality and respectful engagement throughout the profession.

- ✓ Arguably chronic incivility depletes the legal profession’s one true resource– its people. Collegiality, on the other hand, fosters psychological safety – the feeling that the work environment is trusting, respectful and a safe place to take risks. When lawyers don’t feel psychologically safe, they are less likely to seek or accept feedback, experiment, discuss errors and to speak up about potential or actual problems.

Options for women in the law?

My research suggests that in this fast changing world more than any other time in history, the opportunities for female lawyers (who based on the statistical data showed above are in the majority in the Jamaican’s legal landscape) to succeed being their most authentic selves are limitless.

Against the backdrop of the enactment of the *Employment (Flexible Work Arrangements) (Miscellaneous Provisions) Act* in 2014 which has removed the previously existing legal impediments thereby facilitating more accommodating modalities of operating businesses in Jamaica and the advances in technology we should consider that more female lawyers can succeed working from home. Other options include working for an international company from the comfort of your own home and for the more adventurous among us there are opportunities in e-discovery that can situate you virtually anywhere in the world.

I have set up a home office and because of the nature of my practice assisted by Teamviewer⁶⁷ I can easily work from home thus avoiding the stress of travel on our roads and be no less productive. My clients do not care where I am working from once their deliverables are being met. In building one's career in the law, women should become more aware and capitalize on the fact that advances in technology have expanded the possible options available to the law firm, sole practitioner or corporate office attorney.

In fact there is a school of thought that a more effective conversation is not work-life balance but rather work life flexibility. Technology makes work life flexibility easier.

Recommendations going forward:

To Laack's list I have added: **Create a culture of wellbeing**

It is suggested that the time has come for the General Legal Council (GLC) to oversee development of a modern curriculum to help students manage their expectations in relation to a career in the law. According to Henderson the modern curriculum must help students to understand that in this challenging employment market it is in the students enlightened self-interest to develop a wider range of competencies in order to differentiate themselves from other graduates. This is against the background of a more sophisticated client base looking for value beyond technical legal skills to help solve their problems. This is absolutely necessary for a profession accepting over 200 graduates annually from one institution, in an island and where the legal profession could be described as saturated.

Both the GLC and JamBar [this conference is an excellent installment on this issue] must make the wellness conversation a part of the practice of law much in the same way ethics is.

In fact one recommendation coming out of the ABA's Task Force Report is a new Model Continuing Legal Education Rule in 2017 that recommends all lawyers to earn at least one credit hour every three years of CLE programming

⁶⁷ The term TeamViewer stands both for the company TeamViewer and its flagship product. Its flagship product, TeamViewer, is an all-in-one solution for remote support, remote access, and online meetings which allows you to assist customers remotely, work with colleagues from a distance and also stay connected with your own devices or assist friends and family members. The software actively runs on more than 400 million devices, of which at least 30 million are connected to TeamViewer at any point in time. The company's product portfolio is complemented by solutions for IT monitoring, data backup, anti-malware, and web-conferencing. The solution portfolio of TeamViewer covers the entire business lifecycle and addresses specific needs including screen sharing, remote desktop, remote access, instant business chat, web and video conferencing, backup, anti-malware, online whiteboards and much more.

that addresses the prevention, detection and/or treatment of mental health disorders. Some variation of that can be looked at here.

As women be a champion for one another

As one professional woman puts it "Girls compete; women empower". There is no greater joy than using what you have learned [often the hard way] to prevent someone from making the same mistakes. My practice is enhanced by the fact that when faced with a matter I have doubts on and need guidance I can pick up the phone and say to some of my close female colleagues "how do I deal with this?" After 23 years I am aware that I do not know everything nor will I ever know everything and so on the road to the best outcome for the client I ask for assistance when needed. Similarly they know that should they need assistance in a matter they can call me. As one judge puts it succeeding as a woman in the law means "*leaving the ladder down*" for upcoming female lawyers.

Maturity has taught me that the person who looks the most well put together has the most going on. Do not be daunted by our wellness appearance but instead be open to the idea that among us are colleagues who have real struggles and consider how can we help.

Identify and develop who you are outside of the Law

If we agree well-being is a "*continuous process toward thriving across all life dimensions*" then we must develop who we are outside of the law and not let our careers define us. According to Reh

"It is not uncommon for individuals to take their jobs so seriously, their own personal identities become wrapped up in their titles and power. If and when something eliminates that title and power: a merger or a downsizing, the impact is crushing for anyone who defined themselves as their work persona. This extreme is unhealthy and jeopardizes our ability to develop, secure and protect any of the other 5 wellness dimensions or Dyson's life priorities to include glass balls".

I am blessed with the ability to turn off my day and I am grateful for the other roles in my life of Spouse, Mommy, Bible Study student, Friend, Sister. As a consequence law is not "who I am" but it is a job, albeit one I love because of its means to help and educate people in managing their affairs.

Each generation has something to teach the other and something to learn from the other

***Baby boomers –born 1954-1964 currently between 55-75 yrs;
Generation X- born 1965-1979- currently between 39-53 yrs;
Generation Y- born 1980-1994- currently between 24-38 yrs;
Generation Z- born 1995-2015- currently between 3-23yrs***

As women in the practice of law let us not allow the difference in generations to separate us but instead see the difference in generation as an opportunity to learn from each other. Baby Boomers can tell us a lot of what not to do on the road to success in the Law. Generation Y and Z can certainly assist generation x and Baby boomers in the use of technology. Let us see the generation not as a barrier that is insurmountable but a means through which by sharing what we know across generations we can realize success for all.

Conclusion:

Wellbeing is an indispensable part of a lawyers duty of competence as to be a good lawyer one has to be a healthy lawyer". As we get older and our bodies become less forgiving we will wish that we prioritized wellness as well as hard work. Permit yourself to work hard and be healthy which involves eating well, exercising, making memories with family and friends, community service, communing with your source.

In God's universe where there is no lack there is space for each and everyone of us to be our authentic selves and succeed in the law. Know that your values will determine what success means to you and it does not have to look like your colleagues. Ironically successfully juggling the balls of life is inimical to our well-being. We therefore cannot fail.

Indeed wellness is so important that it behooves the Jamaica Bar Association and The General Legal Council to focus on wellness of all participants in the law which can start with hosting seminars around wellness and to provide avenues for the identification of counsel in distress and who are simply not coping. This includes managing the expectations of young graduates that this is still a profession which requires years before the "windfall" will come.

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