

Chapter 5:

The evolving legal talent pool

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Twenty years ago, a lawyer's career path was linear and unforgiving. Particularly in the large law firm environment, the expectation was that if you wanted to succeed, you needed to stay on track. That translated to no career breaks, no alternative schedules, and no deviations from substantive practice that would make a lawyer appear anything other than committed and focused on career progression.

Women were the first to challenge the traditional model, many of whom were the 'canaries in the coal mine', frustrated that the partnership track would not give them the flexibility to build a career and a life at the same time. Countless women found the partnership track untenable and left the profession. Among those who stayed, many were stigmatised and 'mommy-tracked'. And for some of those women who remained on the traditional track, it meant foregoing marriage and/or children to conform and succeed on the only path to equity.

That rigid path has begun to erode, and those with less linear career paths may no longer need to be casualties of the system. However, it's not because the legal profession has suddenly gone squishy. Instead, powerful market drivers are propelling the shift and do not appear to be going away anytime soon; nor should they. These drivers are principally the economy and associated changes in client demands. Other contributors are demographic shifts that are impacting lawyers' career trajectories, and in turn the receptivity to alternative career paths.

With respect to clients, they are no longer shy in communicating their pressures and changed expectations.¹ Given the volatility of the market, in-house lawyers face headcount constraints and shrinking budgets, yet they also expect to do more work internally. They demand more predictability in their fee structures from their outside providers, and seek more alternative fees, value, and risk sharing. They resist paying

for junior lawyer training, and they seek more flexibility, creativity, and collaboration in their legal service providers. Additionally, they push for disaggregation of work and technology adoption and they are more solicitous of alternative legal models.

Parallel with these increased client pressures and expectations are the demographic shifts in how millennials and baby boomers build and exit their careers. Millennials, generally less concerned with longevity in their jobs, are more open to non-linear careers. They also seek more flexibility in the way in which they work, and they push the work/life agenda in gender-neutral ways for reasons beyond family.

Meanwhile, many baby boomers don't like the way their bank accounts look as they approach retirement. They also find their children returning home after college in greater numbers, leading to more expenses than they had envisioned. These factors and others have led baby-boomer lawyers at the senior arc of their careers to phase into retirement, and work flexible or reduced hours for a period of years rather than retire outright like many of their predecessors. The visible example of these revered leaders in the profession working differently helps to destigmatise flexible working as well as less traditional careers.

Beyond the millennials and baby boomers, over the last decade, lawyers with less linear careers are being judged less harshly, thanks in large part to the mass layoffs of lawyers in the great recession of the late 2000s and its aftermath. With less certainty in the market came more acceptance of résumé gaps. This helps other lawyers who find themselves unemployed due to relocations for a spouse's job (including military spouses who are transplanted to different geographies on a regular basis) and those lawyers negatively impacted by firm and corporate mergers and reorganisations as well as general and widespread downsizing and outsourcing initiatives.

In a virtuous cycle, once the market became more inviting to lawyers in transition, in turn, these lawyers became more willing to articulate their true desires to work differently. The erratic market has also helped some lawyers develop a greater appetite for risk, recognising that their jobs were not as secure as they might have thought. Lawyers' increased willingness to work in secondment roles (temporary engagements) and for virtual firms, as well as for other NewLaw² models, also exemplify the shifting roles of lawyers in the market. Some of these lawyers seek alternative paths due to involuntary layoffs, relocations, desires to reinvent or expand their industry experience, and to supplement solo practices and gain in-house experience. Others seek non-traditional roles in legal

settings like project or knowledge management. This trend towards alternative paths reinforces the predictions of experts that future growth in legal jobs is in non-traditional roles like legal process engineers, technologists, and process analysts.³

Ultimately, clients' needs will drive lawyers' career paths. And when it comes to talent, clients want better alignment between lawyers' work, skills, and seniority, and the fees that are charged. For law firms, this translates into bringing more candour to the career progression process and creating viable alternative paths to equity partner. While many firms have created different titles for lawyers beyond equity partner – e.g., non-equity partner, counsel, senior attorney, staff attorney – lawyers in these positions are often side-lined, with little chance of an entrée back to the equity partner track.

For law firms to remain competitive in the talent sphere, they should instead create more fluidity among the different titles and roles, allowing lawyers to flow from one function to another, and to ramp up and down their practice, assuming their skills warrant promotion and their emerging roles are consistent with the business needs of the firm.⁴ In addition to allowing a return to equity track for lawyers who are poised for the transition back, each of the other roles at firms, along with equity, should still have progression tracks and valued paths. This would allow firms to attract and retain a more diverse pool of lawyers and better align the lawyers' contributions with the fees charged to clients.

While there is today a greater openness to lawyers with jig-jagged experience, many legal employers have yet to fully appreciate the value of attracting and retaining lawyers who wish to create patchwork careers. Many law firms and legal service providers have yet to realise that this is really what clients want. Indeed, clients are demanding more choice and flexibility, and by affording lawyers the ability to work differently, employers can better serve clients' needs at the varying levels and rates that clients want. For law firms, this means creating more hospitable workplaces where lawyers contribute at different levels, and firms bill these lawyers out to their clients at a greater range of predictable rates.

To make law firms more hospitable, the focus also needs to be on supporting both male and female lawyers over their full career span. This means setting reasonable hours and protecting vacations, as well as instituting generous gender-neutral policies involving parental leave, childcare, eldercare, flexible and reduced hours, re-entry back to the profession, and phased retirement. Creating a more hospitable workplace that cultivates lawyers who bring true value to clients requires

law firms and other legal service providers to invest in their talent as people – not simply as lawyers. This means going beyond training in substantive expertise, and working to cultivate lawyers' skills in leadership, sponsorship, and networking, among other areas.

Bottom line is that lawyers' lives are not linear and therefore legal careers need not be either. Legal employers who ultimately win the talent war will be those who embrace the evolving talent pool, support lawyers at each stage of their career trajectories, and ensure that these lawyers are meeting client needs in an ever-changing market.

References

1. See Henry, D.E., Rabinowitz, S.S. and Berger, G.A. *Finding Bliss: Innovative Legal Models for Happy Clients & Happy Lawyers*, ABA, 2015. (pp. 11–36)
2. NewLaw is defined as 'any strategy, structure, model, process or way of delivering legal services that represents a significantly different approach to the creation or provision of legal services than what the legal profession traditionally has employed'. Jordan Furlong and Sean Larkan of Edge International, 'A Brief Inventory of NewLaw in Australia' at ALPMA, A Survival Guide for Legal Practice Managers, 25 August 2014.
3. See generally, Susskind, R. *Tomorrow's Lawyers: An Introduction to Your Future*, Oxford University Press, 2013.
4. Henry, Rabinowitz, and Berger, *Finding Bliss*. (pp. 85–97)