

NATIONAL

Women & leadership

By [Beverley Spencer](#) March 2014

Interview with Deborah Epstein Henry



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Women have been entering the legal profession in record numbers for two decades now, but many still struggle to advance or find satisfactory solutions to work-life challenges. Deborah Epstein Henry, founder of Flex-Time Lawyers LLC and a U.S. consultant on retention and promotion of lawyers, believes both women and law firms need to revamp their approaches if this is to change.

She spoke with Beverley Spencer, editor-in-chief of National, at the CBA National Women Lawyers Forum leadership conference in Montreal.

National: Why are we still talking about women and leadership?

Deborah Epstein Henry: I think half the problem is that women are not raising their hands for things as much. Part of it is the individual action steps women should be taking. [It's about] leadership and developing strategic alliances, and being effective at networking, and being effective at self-promotion as well as navigating the flexibility and work-life challenges.

But the other equally compelling problem is that workplaces are not hospitable. When women take charge of their workplaces, whether [as] entrepreneurs or in less traditional venues, they do better. If the measure of value is hours logged, it's very hard for women to compete. But if the measure of value were changed to quality of work and output, delivery of results, efficiency,

women would be able to compete in a much better way. That's one reason why I'm a big fan of alternative fee arrangements because I think the measure of value should be something other than time.

The other thing I'll add is that it's not just about what's happening at work. Women are taking on too much work in the home. If you're saddled with all the responsibilities of childcare and managing your house, you don't have the ability to put as much as you need to into your workplace and your work. So part of this is about delegating at home, not just delegating at work.

National: Why are law firms so resistant to changing their traditional structure?

Henry: [I hear] a number of different arguments when I work with management. One is overhead: that it's going to be prohibitive to have lawyers who are working reduced hours take on the same overhead [as] their full-time colleagues. [Law firms] are saying this basically out of accounting convenience. What law firms will do is look at the overhead of the entire firm, divide it by the number of lawyers and say x amount is attributable to each lawyer. That's actually really inaccurate because the partner with the corner office is using so much more overhead than the third-year associate who may be tripling up on secretaries and has smaller office space, smaller square footage, and is using fewer resources of the firm.

The first thing is to accurately attribute overhead, [for example] that to be profitable you need to be billing, let's say, at least a 60-per-cent schedule. Once they've figured out the number there's much less resistance around that.

Another very popular argument I hear is that part-timers are simply not profitable. I say they're doing the wrong math again. They should not be looking at the profitability of a full-time lawyer versus a lawyer working 80 per cent. What they should be comparing is the 80-per-cent lawyer and 0-per-cent profitability. Many lawyers whose needs in terms of flexibility are not being met, leave.



Deborah Epstein Henry
Flex-Time Lawyers LLC

When somebody comes and asks for flexible or reduced hours, the [No. 1] question should be: is this person somebody we want to retain and promote? Are they good? If the answer is yes, the question is how do we design our arrangements so colleagues and clients are not negatively impacted [and] the lawyer is able to get the flexibility they need? And that's really the equation. And also having the foresight that maybe this person's going to be 80 per cent for two or three years, but they're going to potentially go back up to full-time.

National: How can women help make the business case?

Henry: One is being knowledgeable about the economics; the other is showing that they can do it without negatively impacting colleagues and clients. [For example, you could say] I want to pilot this for six months and show you that nobody has to absorb my work. I'm not engendering colleague resentment. I'm still doing what I need to do. I'm being responsive and accessible. I'm still producing quality work. I'm just staffed on proportionally few matters. I'm getting paid less.

The way to do it is to demonstrate through example that they can still handle the work and be responsive.

National: Should women consider abandoning the traditional model altogether and look to new forms of practice, whether it's a virtual firm or some other type of arrangement?

Henry: I'm a big advocate of new legal models. Virtual firms are terrific; secondment firms are also really wonderful. That being said, I would not advise the answer here is to steer all women out of big law and traditional practice. If we do that then we're giving up. The traditional workplace has to become more in line with today's reality. And that really to me is the answer: not abandoning the traditional workplace but changing it.

National: What would you tell a young woman today about how to create a successful and happy professional life in law?

Henry: The biggest mistake I see with law students or people who haven't started practice yet is that they have a very narrow vision of what they need to do to be successful. They think they just need to be a good practitioner.

Lawyers need to enter the profession [and] think about the multiple dimensions they can bring to the practice: being smart about strategic alliances; being an effective networker; developing skills and raising your hand for leadership; being able to navigate work-life challenges; being effective at self-promotion. That full picture is what's going to bring satisfaction in work. What's interesting in the research around why women leave the profession [is that] it's not just work-life reasons. Another significant reason is lack of satisfaction.

If you're more engaged in work by developing all those skills, it engenders much more satisfaction. That's one piece of it. The other is really making sure the practice and the area you're going into is of genuine interest. If you're practising and you don't like the substantive work or you don't like the venue, it's not sustainable. So you have to be really thoughtful about both the substantive area as well as the venue in which you practice.

This interview was edited and condensed for publication.

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