



**Work-family balance for women lawyers today :
a reality or still a dream?**

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In past years, researchers have focused on the problems involved in work-life articulation or balance, that is between personal and professional life, and the issues related to extending one's career or attempting to change one's working arrangements at the end of active working life. In the wake of the current demographic decline and possible shortages of skilled labour in some sectors, organisations seek to identify ways to attract employees and retain them. For their part, workers search for improved quality of life, working time arrangements, and support or means to accommodate their choice of activities. Most scientific research therefore indicates that public authorities and social actors should define new working arrangements, working schedules and new approaches to the management of working ages in an effort to re-design work organization not only for ageing workers but for employed working parents through measures that allow a better balance between work and personal/family life over the lifespan.

In this context, CURA-WAROL studies existing work-family systems as well as issues related to managing working ages and times (retirement, early retirement, working times and schedules, to name a few), and the position of social actors regarding these measures and any other programs or experiments likely to be explored or implemented.

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- ▶ Reliable resources for pedagogical or other objectives;
- ▶ Access to university knowledge and experts and also to non- or para-governmental agencies concerned with working ages and social times issues (work-family articulation or balance, ageing and end of career, municipal family policies);
- ▶ Data and statistics on questions that bear on the management and regulation of working ages and social times.

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ARUC-GATS

L'Alliance de recherche université communauté sur la Gestion des âges et des temps sociaux (ARUC-GATS) s'intéresse aux dispositifs existants de conciliation emploi-famille, et de gestion des âges et des temps (retraites, préretraites, temps de travail et horaires de travail notamment), ainsi qu'aux positions des acteurs sociaux concernant ces modalités et toutes autres qui pourraient être expérimentées. Elle s'intéresse également aux réalités d'emploi et aux aspirations de la main-d'œuvre. Dans ce cadre, l'ARUC-GATS cherche notamment à connaître les positions des acteurs sociaux et à déterminer quels aménagements seraient souhaitables pour accroître le taux d'activité, mais aussi pour offrir de meilleures conditions de travail aux salariés vieillissants ou ayant des personnes à charge (c.-à-d. enfants ou personnes âgées avec incapacités).

L'ARUC-GATS comprend trois axes de recherche principaux à savoir :

Axe 1. Conciliation emploi famille (CEF)

Axe2. Vieillesse et Fin de carrière (FIC)

Axe 3. Milieux de vie, Politiques familiales et municipales (VIE)

La présente recherche s'inscrit plus spécifiquement dans ce dernier axe. Dans ce Chantier d'action partenariale (CAP) sur les milieux de vie, on s'intéresse au rôle de l'acteur municipal ou régional, en ce qui concerne le rôle du milieu de vie dans la vie familiale et l'articulation entre les responsabilités professionnelles et la vie personnelle. Dans ce cadre, l'ARUC analyse les pratiques et politiques en place au Québec, mais effectue aussi des comparaisons avec le reste du Canada et l'international.

Work-family balance for women lawyers today : a reality or still a dream?

Diane-Gabrielle Tremblay¹

Introduction

Studies conducted among lawyers generally point to the difficulties of balancing work and family time, which is considered a source of stress and overall dissatisfaction. Some surveys reveal this conflict to be one of the main reasons why many lawyers are leaving their profession (Brockman, 1994; Hagan and Kay, 1995, 2002). These same surveys moreover revealed inequalities between men and women lawyers with regard to this thorny issue of balance. For example, women declare being less satisfied than men in this matter (Kay, 2002, Wallace 2006). It also appears that the successful practice of the profession and career advancement are, if not incompatible, at least more difficult for women with children. The parental status of women was moreover found to be a discriminatory factor in their career advancement. (Wallace, 1999, 2004, 2006).

These surveys, while shedding light on the points of tension that shape the career paths of professionals from both genders within the legal professions, raise many questions on how these tensions are handled in everyday life and how they impact the careers of the respective genders.

Beyond an analysis of the difficulties encountered by lawyers in managing their time outside of work, our study also examined lawyers' experiences with the view to contributing to the more comprehensive, organizational discourse of the profession,

¹ This paper was presented at the Equality, Diversity and Inclusion conference in July 2012 and was nominated as Best paper in the HRM-Gender section. I wish to thank Elena Mascova who worked as research assistant on the research with me, although she left for another position in France before the research report was finished.

and to thereby bring about change. As a matter of fact, work-family balance is gradually ceasing to be a mere private matter and increasingly recognized as a shared stake by various professions. For lawyers, this recognition culminated in the signing by the Barreau du Québec (Quebec Bar Association) in 1995 of the *Déclaration de principe sur la conciliation travail-famille* (Declaration of principles on work-family balance), last updated in 2010.

It constitutes a commitment to make all efforts to reach the right balance between professional responsibilities and family responsibilities. (Barreau, 2011; our translation)

However, what has been the actual outcome of this declaration? After presenting our theoretical framework, based on an “analysis centered on the profession” and its contribution to the study of work-family balance, we will show that even if some progress has been made in other sectors, it remains difficult for both men and women lawyers to balance their profession with a family life. This appears to be largely due to explicit and implicit “norms” of the profession, and we will highlight the impact of the “profession” beyond individual and organizational factors that can also constrain options. Although the State of Québec is seen as supportive of family - with 7 \$ a day childcare and flexible, well-paid parental leave, which differentiate it from the rest of North America – we will show that this is apparently not sufficient, particularly for women lawyers.

2. Theoretical framework: An analysis based on the notion of profession

The societal context in which this study takes place is characterized by a cumulative model of work-family balance that is not very differentiated with regard to gender, in other words, where men and women are assumed to have more or less the same capacities to balance work and family and can cumulate both without too much difficulty. To facilitate the implementation of this cumulative work-family balance model, the government provides institutional support such as family leaves (e.g., maternity leave, paternity leave, parental leave), which allow a parent to withdraw entirely or partially from the job market without breaking all ties with their profession (Fusulier, 2011; Tremblay, 2012a).

However, individuals' stances toward such measures, and the use they make of them, vary considerably not only from one society to another, but also within one and the same society, for example between professions as we want to show here. This then constitutes an elaborate space of mediation characterized by the overlapping of diverse social relations that influence the use which individuals make of the implemented measures. It can be of interest to examine the roles of the different variables that structure the individuals' relationship and usages of the different measures, in particular based on gender (Fusulier, 2011), or to look at the importance of organizational culture in work-life balance (Haas et al., 2002). The societal governance of how individuals manage their professional and family responsibilities (Barrère-Maurisson and Tremblay, 2009) also plays a role. However, in this study we examine work-family balance from a relatively understudied aspect, namely that of the professional group. This makes it possible to understand how the standards and ethics of a profession can have an impact on individuals' attitudes and behaviours regarding family and working time, for example.

Some authors argue that profession is a pertinent unit of analysis to the extent that it would "benchmark" a person with regard to their remunerated activity and, given the attending interrelated subjective and symbolic aspects, to their extra-professional activities (Fusulier, 2011; Tremblay, 2012b). Thus, individuals' experiences and relationships to work-family balance are shaped by the constraints, rules and professional cultures, which together comprise the notion of "professional culture" or "professional ethics." According to Fusulier (2011; our translation), "work-family balance is affected not only by individual, family, sociocultural, organizational or institutional characteristics, but also by the rules and ethics of a given professional group."

A branch of sociology called the sociology of professions examines the rules and set of standards, both explicit and implicit, that shape the ethics of a given profession. This, in turn, allows to understand how that occupational group operates and how it appropriates the different measures, in particular with regard to work-family balance.

Ethics here is understood as a mediation between the legal aspects (e.g., the right to take a parental leave) and the individual and collective attitudes with regard to those rights, as varied as these may be. [...] Ethics could then

function as a social and personal driver to influence how people use various legal measures, and how they view them, be it positively or negatively. [...] This notion serves a heuristic purpose, namely of allowing to conceptualize the relation between the collective history and the rationales of action, the insertion in a social environment and the practices—all in a perspective that is more structurationist than deterministic. (Fusulier, 2011; our translation)

Examining work-family balance from the angle of the profession will allow to understand how professional belonging impacts the way lawyers experience and manage this reality on a day-to-day basis. Our study was thus guided by the question of the extent to which one's relationship to work-family balance is shaped by the profession one is in. Our inquiry is also a part of a larger research program conducted on many professional categories. Studies from that program allowed to confirm that in one and the same institutional context, and regardless of participants' individual characteristics, the way in which work-family balance is experienced and negotiated (i.e., the way in which a relationship to institutional work-family balance measures develops) is likely to vary from one profession to the other. This supposes the existence of certain standards and approaches in a professional environment, in other words, of a "professional relationship" to work-family balance.

Building on these studies on diverse occupational groups, we aim to advance understanding of the professional relationship to work-family balance by focusing on the case of lawyers.

Our inquiry takes place in a context of feminization of the lawyer profession (Barreau du Québec/Cirano, 2009; Brockman, 1992). Among the authors interested in the topic of feminization, Lapeyre sought to:

get beyond the masculine/feminine divide [...], to examine the process of feminization in the professions and its potential for transcending and transforming gender relations and for paving the way to a new understanding of feminization within the established professions. Lapeyre (2006: 29; our translation)

The author underlines that women's place in the working world remains precarious and that this may apply even more so to the group of "professionals" (referring to professional qualification usually requiring a university degree).

In France, as elsewhere, gender-based occupational segregation appears to persist not only in the job market as a whole but also within the professions, with women occupying specific sub-sectors more so than their male counterparts (Lapeyre, 2006). We wanted to understand why this was still the case despite the increase of women's education, the official prohibition of discrimination in the workplace, and the existence of equal access programs in many work environments. Our question was thus why, in a social context that is favourable to women's progress, do women still seem to have difficulty in carving out a place as a lawyer? (on this, see Kay and Hagan, 1999, 1998, 1997, 1995; Brockman, 2006, 2002, 2001)

Our main hypothesis is that the management of personal and family time, in particular work-life balance, remains a challenge for women lawyers even some ten years after the last study conducted on the subject in Quebec (Kay, 2002). Thus, although the management of professional time and personal time seems to have improved in some professional environments, this appears not to be the case for lawyers. In fact, as we shall see, given the high demands with regard to the number of billable hours for accessing the associate status, many women have difficulties balancing the lawyer profession and parenthood. Finally, it appears that work-life balance is best understood from the broader angle of the evolution of a person's career and family life, with its choices and challenges, rather than as what it may represent at a given moment. This led us to opt for a qualitative method, with in-depth interviews, to be outlined in the following section.

3. Methodology

To recruit participants, a call to volunteers was published on the website of the Barreau du Québec and in the newsletter the Barreau sends to its members. Additional calls were placed in two-month intervals in order to gather a wide range of profiles.

In all, 115 lawyers volunteered to participate. Of those, we selected 46, namely 17 men and 29 women. The selection criteria were based on the mode of exercising the legal profession, as we had to ensure a representation of diverse environments. Without claiming to provide a complete representation, we succeeded in covering a wide diversity of work environments, as was desired.

Table 1: Profiles of participants according to gender and mode of practice

Environments	Men	Women
Public/parapublic sector	7	6
Businesses (litigation, etc.)	3	6
Private practice: independent	2	9
Private practice: small firms	2	3
Private practice: medium/large firms	3	5

The interviews were held between mid-January and mid-May of 2011. Most of the interviews were conducted by phone, although some were also done by Skype. The latter proved to be an expedient tool in that it allowed us to include lawyers from the regions and not only those working in Montreal. Of the 46 lawyers, 31 were based in Greater Montreal and 15 in outside regions. Almost all interviews took place during work hours, although two respondents preferred to be interviewed at home and two respondents were on parental leave, at home.

The interviews lasted 1 to 2.5 hours, the average duration being 1.25 hours. Overall, the interviewees showed themselves to be very interested in the subject—which demonstrates that work-family balance is an important issue within the profession.

Our paper will feature excerpts from these interviewees in order to better convey the feelings of our interviewees. The respondents' first names as well as any distinctive traits and wordings were slightly modified in order to maintain their anonymity.

4. Being a parent and a lawyer – a contradiction in terms?

Our analysis clearly testifies to the challenges faced by lawyers, especially women lawyers, to balance professional life with family life.

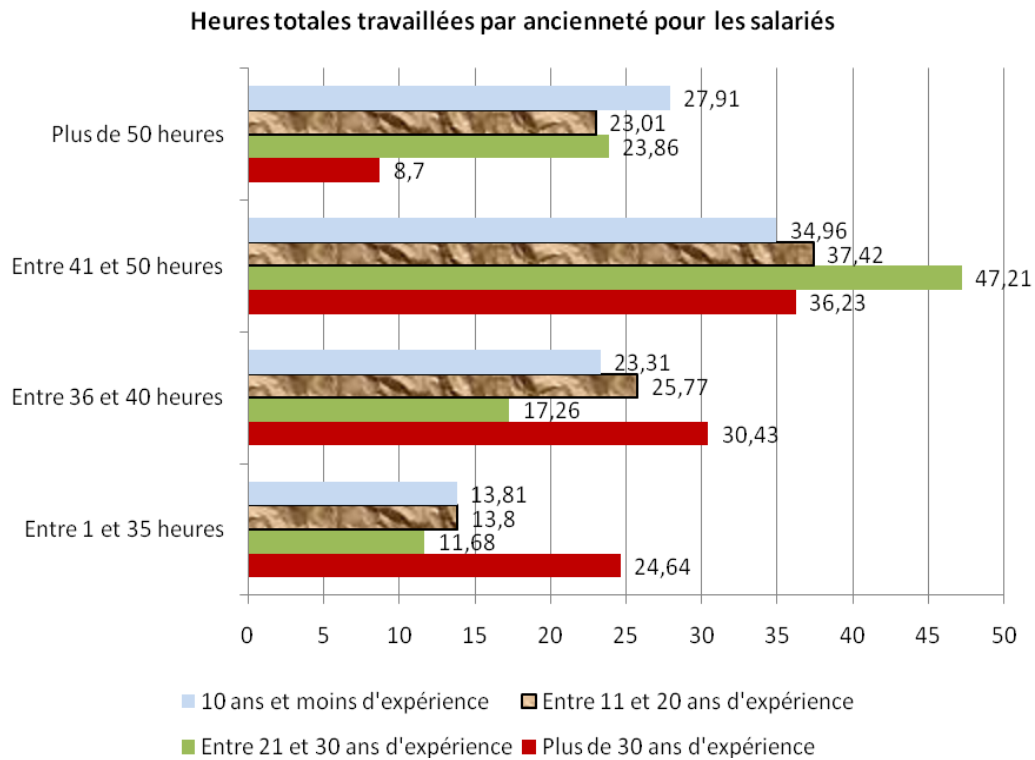
For example, formal work-family balance measures such as parental leaves and variable hours are increasingly in effect and in use. However, this is offset by the fact that women lawyers are apprehensive as to the negative impacts which these measures can have on their professional advancement, and male lawyers even more so, leading the latter to do little use of such measures. That said, women lawyers did indicate that they felt they were getting somewhat more informal support from their professional environment, which can play a key role in their ability to manage work-life balance (Behson, 2005). For example, for some women lawyers, the lack of support from colleagues turned out to significantly limit their ability to achieve work-life balance, .

4. Production or reproduction? Overlapping timetables

Based on our study, lawyers reached their limits relatively soon with regard to the organization of both their professional and family projects. In fact, the entry in the job market and the first years of practice of the profession are characterized by the dual challenge of rapid accumulation of experience and professional advancement.

These first years are those where lawyers work the most, as testified by the survey data of the Barreau/Cirano(2009). Lawyers with less than ten years of experience are most likely to work more than 50 hours per week.

Figure 1: Seniority and hours worked among salaried lawyers



Source: Barreau du Québec /Cirano, 2009

The table above indicates the total number of hours worked by seniority for salaried lawyers. In the over 50 hours group, it is mainly the lawyers with 10 years and less of experience. In the 41 to 50 hours group, the lawyers with 21 to 30 years of experience dominate, while those in the over 30 years of experience find themselves more represented in the two other groups (1 to 35 and 36 to 40), but they are still more present in the 41-50 hours group (36 %)

This critical period for professional advancement coincides with the period of partner-finding and family planning among the younger lawyers, resulting in an overlap of the productive and reproductive agendas (Lapeyre, 2006). A good part of the lawyers, and especially the women lawyers, select their work environment in part on the basis of how these may allow them to balance these two agendas. However, it should be noted that this concerns not only women. Some men wishing to invest in parenthood also take account of this parameter when planning their careers.

4.2. The dilemma: To postpone parenthood or not?

What are the strategies that women lawyers resort to when confronted with the conflicting demands from the two fronts work and parenthood? And, can these really be said to be “strategies,” or are they, instead, mere ways of coping that evolve over time and that are shaped by a continual subjectivation of the lawyers’ experiences and values? Finally, do lawyers have the tendency to postpone parenthood in order to avoid being penalized in their professional advancement, especially those who have put in extraordinary efforts to become lawyers, or, do some renounce having children altogether?

We argue that is is above all women who are faced with these challenges. Because for a woman, whatever the work environment and mode of practice, stopping work or having children at a young age can be a career-limiting factor. Men, by contrast, generally take only the non-transferable paternity leave (3 to 5 weeks), sometimes together with a portion of the parental leave (leading to an average of 7 weeks of leave). In this way, the three quarters of fathers in Quebec who make use of these leaves usually average on seven weeks of absence from work, which has little impact on their career compared to mothers who take longer leaves (10 to 11 months often). We shall discuss this aspect in more detail in the section dedicated to the consequences of taking maternity or parental leaves.

Most lawyers interviewed reported having made deliberate plans for parenthood at the start of their active life. They view considerable professional investment to be a given in their work environment, thereby conforming to the commonly accepted standards in the profession. On the other hand, once women have passed the threshold of 30 years, they tend to reconsider their work conditions and ask themselves to what degree the conditions and demands of work are compatible with the possibility of having a family life.²

² In Quebec, the average age at the birth of their first child is lower for women (28.0 years) than for men. Due to the small size of our group of interviewees, we cannot draw definitive conclusions on the subject; however, we did observe a trend among women lawyers to postpone

This was the case with Josianne, who, after having been director of legal affairs in a large firm for six years, a position that involved a lot of traveling, changed her employer and work environment in order to be able to realize her family project.

I worked at that company for six years. I put in a lot of hours there, and most of it was business trips. So I didn't work that much in the office, but if you consider the trips, I was on the road for one or two days every single week. That was the pattern. But, there came a time when I also wanted to have children. In the meantime, my partner and I separated, and uhhm, I decided that it was time to end that chapter of my life at the company and told myself that if I wanted to have children, it's not there that I would succeed, because I was never there. Then someone approached me about a position at a paragovernmental organization, and I decided to go there. And that too was hard work, around the clock, but nevertheless less demanding than before. But in any event, I didn't stay there for long, because I became pregnant. (Josianne, 40 years, married, 2 children, private firm, Montreal).

An investment focused exclusively on professional life thereby comes in competition with the family project. The case of this lawyer shows us that the predominant model of professional investment was put into question when it did not allow to balance work life with a life outside of work. For men, we did not really observe this kind of questioning around the compatibility of a job with the family project, and even less so with a change of commitments in the professional arena.

Other lawyers made the choice to have children very early,³ before even beginning their professional life. The price for this was a somewhat more difficult, and later, career start. However, when these women are at the end of their 30s, and when their

the moment of the arrival of their first child up to the average age of 30.4 years. (The median age is 30 years).

³ This refers to both planned and unplanned pregnancies.

children are older, they can invest more in their career and catch up, while their female colleagues with young children are faced with the constraints of managing family life. This prompted Johanne, who had her first child at the age of 28, to say that “you shouldn’t wait too long to have kids,” because it’s even worse to have children once a career has progressed and “when you already have all this professional responsibility.”

It’s funny to see the paradox that ten years ago I was lagging behind everyone, due to school, the children and the maternity leaves, and that today, on the contrary, I see women lawyers who’ve had interesting careers and who are beginning to have children at the age of 35. So now they’re with the children at daycare, and I say to myself, oh my God, how would I cope with the kids at daycare. I’m lucky, I have two teenagers, and the youngest is still in elementary school. But it’s a lot easier now, and today I can give all that I have to give at the level of work, because I can manage that balance more easily. (Johanne, 42 years, married, 3 children, private firm, Montreal)

However, careers that were initially postponed due to maternity do not invariably “catch up” once the children are somewhat older. For example, in some families great value is placed on extra-curricular activities, in which case the children continue to need a significant time investment during adolescence, and even further on, as is the case with Anne-Sophie.

My youngest daughter dances and is getting excellent results at competitions. This takes up a lot of my time. I do it with all my heart and soul though, including the car rides, and sewing the competition dresses. So yes, ultimately it’s very time-consuming, but I don’t question it. (Anne-Sophie, 41 years, married, 3 children, self-employed, Montreal)

For the men, the decision of at what age to have children was never an issue. Among the lawyers met, men and women put together, about one third had children before the age of 30. However, the consequences of such life choices are not the same for the two genders, both with regard to the family arrangement within the couple and the professional level, as we shall see.

4.3 The hard road to professional advancement

The work environments, modes of practice and set of tasks in the lawyer profession are very varied, resulting in a wide range of standards governing professional advancement.

Our analysis of the interviews shows a distinct difference between working conditions at private firms (whatever the size) and other types of organizations—namely the requirement that lawyers in private practice meet specific objectives in terms of billable hours and business volume. Further factors to consider are the economic context, which may add to or lessen the competitive pressure, as well as the emergence of new firms and fields of specialization. Some research has been done on the topic of career advancement in law firms, namely for large law firms, albeit without examining how the challenges of advancement can impact work-life balance. We here propose to examine the results of those studies in light of our own observations.

Any analysis of private practice should distinguish between the size of the firm as well as the location of the firm. For example, we found that the level of objectives was higher in Montreal than in the smaller cities in the regions. In the medium and big firms, the accession to the status of associate is considered a critical transition in the career (Kay, Gorman, 2008). Associates have shares in the firm, participate in its management, and enjoy greater autonomy within the organization. Apart from working on their own files, a good portion of their mission is dedicated to business development. Although competition and economic pressure have pushed down profits for associates over the past decades, the associate status continues to be very coveted.

The rapid growth of firms due to mergers and expansions also challenges the model in all its aspects, from the sharing of benefits to decision-making and the management of the firm. Faced with an increasingly larger number of salaried

lawyers, firms have been extending the duration of the positions that can lead to the associate status (now 7.5 years on average in Canada) and have created new categories of associates, e.g., non-equity partner or salaried associate; permanent employee; and expert consultant). In a time of rapid change, flexibility thereby proves to be more important than tradition. (The Canadian Bar Association, 2010)

Given the transformations facing the legal firms, the associate status is no longer invariably synonymous with “the good life.” Moreover, the status can no longer be expected to be as easily attainable. Instead, new forms of advancement appear, such as the status of the non-equity associate or that of the equity partner.

At our firm there’s the intern, lawyer, equity partner, senior partner, and then there’s the associate. There are certain associates referred to as “special partners” who have the title of associate but who are essentially employees like me and who do not share in the profits of the firm. Those titles were issued upon by special requests, which we don’t do anymore, because it’s not like that that the firm will grow. It’s not like with X or Y where you have to become a non-shareholder before you can become a shareholder. We don’t do that. (Constance, 32 years, married, 2 children, large firm, Montreal).

However, when young lawyers enter these types of organizations, they seek to climb the career ladder and attain associate status—regarded as the most prestigious professional recognition to which most aspire. From that point of view, starting in a smaller size firm can be a winning strategy for them, in that, given the lower number of staff, competition between lawyers there is lower. By contrast, at the big firms, becoming an associate is often more complicated due to mergers and acquisitions, the relatively low number of associate positions available (or the stricter criteria by which they are given) and a larger number of candidates.

The title of associate is offered on the basis of the number of years worked at the firm (seniority is one of the main factors in the speed of advancement) and the acquisition of a certain level of professional competence (evaluated in particular by the number of new clients brought in and the capacity to generate business volume).

We systematically interviewed the lawyers about their professional objectives and the performance evaluation criteria. While this revealed the existence of a large number of criteria of advancement, the main criterion was the imperative with regard to the hours billed to the clients. The threshold of fixed hours varies from one firm to the next, and can go from 1200 hours per year in a firm outside Montreal, in the regions, up to 1800 hours per year in big firms in Montreal.

My objective in terms of hours is 1700 billable hours and 150 non-billable hours. So that's between 1600 or 1750. In small firms, that's another thing [...] If you're very consistent, you might make 7 billable hours per day. That doesn't seem like much, but to be able to bill 7 hours, you have to spend about a total of 10 hours in the office. So that's a lot. If you look at the statistics of what's being invoiced, it's a lot lower than that. When we do our survey on the hours billed, it's a lot lower, but [...] (Constance, 32 years, married, 2 children, large firm, Montreal)

Moreover, looking at firms' statistics, it appears that this objective is not invariably reached and that most lawyers are below the target. Still, this objective seems to function more as a benchmark and selection criterion for determining the advancement of the luckiest and most ambitious. It is less a matter of sanctioning than of determining the criteria for an ideal lawyer. However, the benchmark is nevertheless well internalized by the lawyers.

People say “[i]f you don’t meet your objectives for several years in a row, there are bound to be consequences.” But, I haven’t seen cases like that. It’s more like something that’s just “in the head.” (Fabienne, 36 years, married, 1 child, large firm, Montreal).

Hours worked, hours billed...an issue of concern for work-life balance

In other firms, even if they have objectives with regard to the number of billable hours, the pressure is lower because they are more willing to accept that, for example, the number of hours corresponds to the hours worked, a part of which is not billable. This is in particular the case in the firm where Jean works, who considers the firm to be “atypical” precisely because the standard for billing hours is not strictly applied.

Technically, there is an objective, but it isn’t applied. In theory, it’s 1800 hours, but in practice, at least at my office, 1800 hours means 8 hours per day, but the nuance is 1800 hours invoiced, that’s why I tell you that the firm here is more lenient; it looks at the 1800 hours I worked and not the 1800 hours I billed (Jean, 36 years, married, 1 child, Associate, large firm, Montreal).

However, arriving at the number of hours isn’t everything, as lawyers are expected to do many other tasks, such as client development, external representation and participation in diverse company activities when necessary, and those often don’t count as billable hours.

By and large, you get close to becoming an associate here after about 8 years of practice. So after about 6 to 7 years of practice under your belt, you start to feel pressure with regard to client development. But the lawyers submit themselves to that pressure, because they want to become an associate; so that means they have to work on establishing a file that’s interesting for the firm. Also, because it’s not

always pleasant to be dependent on others; when you're independent, they give you more interesting files I think. (Karine, 38 years, married, 4 children, large law firm, Mtl).

For sure, in the evaluation, we look at the clients [...] The number of hours you do, but also the number of files that are open, so client development is important as it leads to open new files. So yes, in the pay, that's an aspect that is considered. Then they look at the number of files opened annually. (Fabienne, 36 years, married, 1 child, large firm, Montreal)

These client development activities are described by the lawyers as being the most difficult, above all when it concerns attracting new clients or participating in social activities outside of office hours, such as cocktail parties or sports events.

We're obliged to participate in client development, primarily by developing connections with clients from the firm. The development of new files, for its part, depends on contacts, and everyone tackles that with their own initiative. It could be contacts, business development opportunities, there's a wide range of things for that, but it's harder.

It's more difficult for what reasons?

It's harder because the clients are over-solicited; because, if I call a potential client and tell him that I offer legal services, as they're already using similar services, you have to find something that will attract their attention to want to switch over to you. So it's not easy, you have to be original, you have to rely on your reputation, contacts, recommendations, and it's not very easy to find a new, original approach. (Constance, 32 years, married, 2 children, large firm, Montreal).

For women lawyers who are mothers, it is above all the obligation to participate in social activities outside of office hours that is considered the most penalizing. They prefer to work in client development by giving conferences or training to clients.

To get ahead within a law firm, lawyers need to have a certain visibility within the firm, which means having a greater support network and being able to work on the biggest files and the most interesting internal collaborations.

What can we conclude from this presentation of the criteria for professional advancement? In reality, advancement requires extremely high time investments. It suffices to look at the extensive amount of non-billable time to understand that a good portion of the work of lawyers is not taken into account in the evaluation. However, ultimately that time is taken into consideration, although in a more subtle way, as it serves to build the necessary social network and to develop a clientele.

The perfect employee is expected to put in 8 hours per day—and that all the time. This means being on top of things regardless of what happens, be it sickness or vacation.

And what goes in the “non-billable time” category?

The recruitment of interns, students, trainings, because you’re expected to take part in 15 hours of training each year, which could also be involvement at the Young Bar Association, things like that. It could also be non-billable files. It’s client development, budgets, clients who don’t want to pay, who you have to run after to get your money. And when an associate has a personal file, he has to take care of it.

What about the time required to interact with colleagues?

I won't even go there. There's a lot of time during the day that's not written down. (Constance, 32 years, married, 2 children, large firm, Montreal)

Thus, lawyers who want to succeed must invest about 12 hours per day, if not more, in their work. Is this feasible for anyone, during all stages of their life? Among the women lawyers who initially expressed interest in participating in the study, only two associates were interested in participating. We were able to interview one of them, who told us she integrated the firm with that status, because it was the only status that exists within the atypical structure of her firm—a firm that promotes equality among the lawyers of the firm and is one of the few that is not so centered on billable hours. Not surprisingly, this is a small firm, with a majority of women lawyers.

All studies on the careers of lawyers are unanimous on the issue that women are systematically under-represented in the associate status. A study (Hagan and Kay, 1995, Hagan et al. 1991) on a random set of Toronto lawyers affiliated with the Ontario Bar Association in 1985 and on a set of lawyers admitted to the bar in the entire province of Ontario between 1975 and 1990 showed that women associates were underrepresented in both groups. Among the lawyers in Toronto, the probability of becoming an associate was 47% for men and 36% for women (Hagan and Kay 1995). It seems things may not be very different in Québec today, even if family policy has developed considerably since the 90s.

In the following we shall examine the experiences of both men and women lawyers in relation to their career vision and their choice of status, namely by considering the required time investment.⁴

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On the effects of taking parental leaves on the possibilities of professional advancement see Tremblay (2012).

4.4. Obstacles to professional advancement among women lawyers

Can we affirm that men and women present different career profiles in the legal professions? We suggest that it is not so much the success models that differ depending on the gender of the lawyers, but rather the probabilities of accessing the dominant career models.

It is difficult to identify precisely at what point women lawyers become aware of the difficulties they face as women in their career. The scarcity of women in the status of associate is an indicator that speaks for itself. Moreover, many women lawyers who have accessed this status have themselves become part and parcel of the system that stands in the way of the advancement of their female colleagues.

The women lawyers encountered reported having become rather bitter when they realized the obstacles they actually face after having children. It is then, and particularly upon returning from leaves, that they recognize the existence of discriminatory practices, even in firms considered “humanist” and atypical. Laure, for example, described her experience of being demoted upon returning from her maternity leave and replaced by a much younger and less experienced lawyer as follows.

I think women continue to be disadvantaged. For one, in the current job market, we have less chances of becoming associates. Look, I’m still not an associate, although not long ago [...] a man was given the associate status. So I think there’s still discrimination. Uhhm, at the salary level, for sure the parental leave helps a lot, but who is going to assume the costs in the end? It’s always the women who have to bear the brunt of it financially! (Laure, 33 years, in a couple, 1 child, small firm, Montreal)

The standards governing this professional universe are so entrenched that the possibility of changing them is virtually zero. As a result, many women begin to relativize their situation, or to become resigned, viewing in work-family balance a kind of insurmountable challenge where they are bound to be the loser. According to that equation, the time available in a day remains unchanged, while the portion dedicated to family will invariably decrease the time available to work. They then resign to pay the price for their family investment, be it in terms of forgoing the types of career advancements their male colleagues enjoy, or by making other choices such as making sacrifices in their family life.

I'm very feminist, I believe in work-family balance. On the other hand, I'm aware that there is a price to pay when taking up these options. Some people accept to have a nanny in their home from 3 to 7 pm and on top of that to have a household aid who cooks and takes care of everything for them. I know lawyers who accept that, and that's ok. They want to move up the professional ladder, and they use all the tools available for doing that. As for me, I want to be at home, so I understand at some level there's a price to pay for that. It's a question of choice. [...] I don't want to be penalized because I had children, but in the end, I accept that there are consequences. (Fabienne, 36 years, married, 1 child, large firm, Montreal)

For these women, believing in work-family balance simply means believing in the possibility of having children, given the demanding professional standards, and of having to forgo a "classic" advancement, even if they were capable of meeting their objectives prior to that without any noticeable difference from their male counterparts.

This raises the question of how such a context influences women's professional ambitions and models. On that subject, Constance, equity partner in a large Montreal firm

and whose husband of the same age is already an associate in another firm, questions the possibility of a professional advancement comparable to that of her masculine colleagues, and observes that her female colleagues are increasingly drifting toward work environments considered less discriminatory.

It's quite obvious that there are very few women who obtain the associate status, and that very few women continue beyond five years of practice. Many choose to go work for the legal department of private (non-law) firms, perhaps because the hours are more predictable and because there may be less discrimination with regard to maternity leaves, all that. In this firm, there are only two women partners who have children, the others have left. I'm not sure I know the secret, I'm following a certain direction but I'm not sure it's going to work, if there's light at the end of the tunnel. Maybe nobody here will ever grant me the associate title here. (Constance, 32 years, married, 2 children, large firm, Montreal)

As Nathalie Lapeyre notes, “[t]he scenario of professional evolution can be summed up as follows: being a woman = being automatically suspected of wanting to privilege one's family life to the detriment of one's professional life and of potentially becoming pregnant” (2006: 128); our translation). Yet, does this mean that any hope is in vain and that women should throw in the towel in the professional battlefield?

4.5. Postponing the period of professional investment and advancement

In a context where men lawyers succeed to position themselves faster with regard to advancement possibilities, women put themselves on the backburner. Based on the testimonials and interviews of our study, most women lawyers have a resigned attitude and do not feel they could effectively fight against a corporate governance that is

discriminatory toward women, or at least does not take into account family obligations. As a result, many women lawyers “decide” to continually postpone the period during which they can invest more time in their career. They thus put their advancement on stand-by in order to be able to balance work and family, as if having children at an early age and investing professionally were incompatible.

As for me, I won't become an associate within the five next years [...] but that doesn't bother me. If I stay at the firm, I think the next years will be a fairly stable period. It's not the period of my life where I'll be looking for more challenges than I already have. I'm satisfied with what I have presently. So for me, the next five years are not a period of professional expansion or development. I have ten years of practice under my belt, even more. During those years, I've had the possibility to get ahead and to fulfill myself. Now, I'm in a sector I know well, where I'm comfortable, and I think that for the five next years, I'll more or less just go with the flow, but I won't [...] I can't have very high professional expectations, when the children aren't yet in school and still little kiddies, [...] I want to maintain what I have, I want to maintain my clientele, but these aren't my big years of development. (Fabienne, 36 years, married, 1 child, large firm, Montreal)

The name of the game for women is more or less to make do with the accomplishments and salary brackets they've attained and to, while taking care to not fall behind, realize that they won't be able to keep up with their male counterparts. This lack of seamless and constant availability to work is explained and justified from many different angles. Any one of our interviewees has a story of a girlfriend who works in a large firm and who didn't see her children grow up, who left parenting up to a full-time nanny, or who wasn't able to take her maternity leave.

I consider myself lucky [...] For example, I know lawyers working in private practice, in solo practice, who I saw at court only two weeks after childbirth, or three months, one month. I think that's a nightmare. I wouldn't want to do that. But I also have a friend, also in private practice, solo, who [...] closed down her firm and [...] and then returned a year and half later. So, each to their own. But one thing is certain, in private practice it's difficult to take a full year off, explaining why women take only four months off and come back afterwards. I consider myself lucky because I was able to leave for a year. It's difficult to come back, but it's not as difficult as if I was in private solo practice. (Laure, 33 years, 1 child, married, small firm, Montreal).

It would be incorrect to attribute this strategy to women exclusively. The men who invested in family life, or who opted to give their partners the possibility to advance in their careers, also experience a delay in relation to their male colleagues. Although this type of situation is less frequent in couples where both partners have the same profession, investing in family life can also be penalizing for the man.

It's all about making compromises. In our case, I'd say that it's because both of us [...] We're aware that we have to make certain sacrifices. But there comes a time where it's a choice in life: What do you want? For example, I could easily compare myself to some of my friends and say "Wow, they've gotten a lot further ahead in their career than I have." But then when I look at them, they have only one child and are overwhelmed. They can't manage and complain all the time. So for sure, there are those who tell me "Three kids, you're crazy!" But, that's that; it's a choice, and in any event family is more important. So I tell myself, ok, my career is a little bit on stand-by mode, and maybe further on down the road I'll work a bit more on that. But for the time being [...] You know, it's when you're young that you should have children. And the career can take off later. I'd say that I'm probably behind by about four years compared to my friends. So I'm behind

by four years, but I have a family. It's a choice. (Julien, 36 years, married, 3 children, public sector, Montreal)

This period of life is viewed as a kind of time-out in the usual professional commitment. Family needs go first, and the commonly acknowledged end-point of this episode is the age at which the children enter school and become more independent. Thus, the degree of professional investment is adjusted to the demands of bringing up children.

Conclusion

Applying a theoretical approach centred on the professional ethos or culture, we examined the possibilities for men and women lawyers to balance their profession with a family life or, in other words, of being a lawyer and parent at the same time.

We saw that the lawyer profession is governed by a set of formal rules alongside informal regulations or expectations that together constitute a professional ethics. Many lawyers come to question the long hours required by this ethics when they begin to plan for children. However, the standards imposed by the professional culture and ethics are nevertheless well anchored in the profession, and the ability to meet high expectations are clearly what characterizes the image of the lawyer as well as the professional ethics more generally.

We also saw that professional advancement is difficult and that for some this can mean either to scale back or postpone their professional engagement or to postpone the time when they have children.

In that context, we examined whether men and women present different career models in the legal professions and concluded that it is not so much the success models as such that distinguish men lawyers from female lawyers, but rather their probabilities of accessing

the dominant career model. It seems that even when postponing births, it is difficult for women to commit sufficiently, and sufficiently soon, to be able to access the predominant career status of associate at a large firm. We moreover had a lot of difficulty to even interview women associates, as there are fewer female than male associates. While new formulas and designations were developed in some firms, it remains difficult for women to access the upper echelons. We moreover found that a certain number of men who want to invest in the parental project also had difficulty to access that status, and that they sometimes forgo the status for the benefit of their family life.

Our research thus confirms that it is still difficult today to access both the status of parent and of lawyer simultaneously, and that this leads a certain number of lawyers to opt for other career forms. While remaining very engaged in their profession, they opt for careers that are less demanding with regard to time, for example, by going to smaller firms or by undertaking public functions in order to find the time required for work-family balance.

With regard to the limits of the research—it is limited given the number of respondents (46). However qualitative research does contribute to a better understanding of the issues facing lawyers when trying to balance their professional life with the family project. The research also shows the changes required in order to realize this parent-lawyer balance.

Our research thereby shows that the billable hours required to become an associate are a major stake, but also that some firms are more flexible at that level. One could thereby deduce that greater flexibility concerning the objectives of billable hours could help a large number of competent women, and men for that matter, to access the higher statuses of the profession. Even though this was not expressed in the interviews, subsequent discussions gave rise to the idea that the sharing of files within a team, rather than the obligation to bear sole responsibility for a file, could constitute a path favouring career advancement without sacrificing family life.⁵ Although two options have already been identified as possible solutions, further studies are required to better determine the

⁵⁵ See the article by Beaudoin, Mélanie (2012) « Conciliation travail-famille : avocats et parents : quels sont vos droits ? » in *Journal du Barreau* of the Barreau du Québec. April 2012. p. 8.

feasibility of these solutions and their stakes and obstacles. Preliminary exchanges indicate that this may not be applicable everywhere, and that it would require a certain change in the professional practices, but that it could nevertheless become reality in some work environments. Thus, interesting avenues for future research have been proposed.

References

Baker J.G. (2003), “Glass ceilings or sticky floors? A model of high-income law graduates”, *Journal of Labor Resources*, 24(4): 695–710.

Barreau du Québec (2011). *L'avenir de la profession à l'horizon de 2021* : Montréal : Barreau du Québec.

Barreau du Québec/Cirano (2009). *Enquête socio-économique auprès des membres du Barreau du Québec, 2008*. Montréal : Barreau du Québec/Cirano.

Barreau du Québec (1992), *Women in the Legal Profession* . Montreal: Barreau du Quebec.

Barrère-Maurisson, M.-A. and D.-G. Tremblay (2009). *Concilier travail et famille. Le rôle des acteurs. France-Québec*. Québec: Presses de l'université du Québec.

Behson, S. J. (2005). "The relative contribution of formal and informal organizational work-family support." *Journal of vocational behavior*, no 66, 487-500.

Brockman J. (1992), “Resistance to the club” to the feminization of the legal profession”, *Canadian Journal of Law Society*, 7(2): 47–93

Brockman J. (1994), “Leaving the practice of law: the wherefores and the whys,” *Alta. Law Review*, 32(1): 116–80.

Brockman J. (1997), “The use of self-regulation to curb discrimination and sexual harassment in the legal profession”, *Osgoode Hall Law Journal*, 35(2):209–41.

Brockman J. (2000), “A wild feminist at her raving best: reflections on studying gender bias in the legal profession”, *Resour. Fem. Resources*, 28(1):61–79.

Brockman J. (2001), *Gender in the Legal Profession: Fitting or Breaking the Mould*, Vancouver: Univ. Br. Columbia Press.

Brockman J. (2006), "An update on gender and diversity in the legal profession in Alberta, 1991–2003" In Sheehy E, McIntyre S, (eds.) (2006), *Calling for Change: Women, Law, and the Legal Profession*, Ottawa: Univ. Ottawa Press, pp. 237–51.

Canadian Bar Association (1993). Canadian Bar Association Task force on Gender Equality in the Legal Profession. (1993). *Touchstones for Change: Equality, Diversity and Accountability*. Ottawa: Canadian Bar Association.

Epstein C.F. (1981), *Women in Law*, New York: Basic Books.

Epstein C.F., Seron C. (2001), "The symbolic meanings of professional time", In *Legal Professions: Work, Structure and Organization*, (ed.) Van Hoy J., pp. 79–94. Oxford: Elsevier Science.

Epstein C. F., Seron C., Oglensky B., Saute R. (1999), *The Part-Time Paradox: Time Norms, Professional Life, Family and Gender*, New York: Routledge.

Fusulier, B. (2011), *Articuler vie professionnelle et vie familiale. Étude de trois groupes professionnels: les infirmières, les policiers et les assistants sociaux*. Louvain, Belgium: Presses universitaires de Louvain.

Gorman E. (2005), "Gender stereotypes, same-gender preferences, and organizational variation in the hiring of women: evidence from law firms", *American Sociological Review*, 70:702–28.

Gorman E. (2006), "Work uncertainty and the promotion of professional women: the case of law firm partnership", *Soc. Strengths*, 85:864–90.

Haas, L., K Allard, P Hwang 2002; The impact of organizational culture on men's use of parental leave in Sweden- *Community, Work & Family*, vol. 5, no 3, p. 319-342.

Hagan, John and Fiona Kay (1995) *A Study of Lawyers' Lives*
London: Oxford University Press, 235 pages

Hagan, J. and Kay, F.M. (2007). Even lawyers get the blues: Gender, depression, and job satisfaction in legal practice. *Law & Society Review*, 41(1): 51-78.

Hagan, John and Fiona M. Kay. 2010. "The Masculine Mystique: Living Large from Law School to Later Life." *Canadian Journal of Law and Society* 25(2): 195-226.

Kay F.M. (2002), "Crossroads to innovation and diversity: the careers of women lawyers in Quebec", *McGill Law Journal*, 47(4): 699–742.

Kay F.M., Masuch C., Curry P. (2004), *Diversity and Change: The Contemporary Legal Profession in Ontario*, Report, Toronto, ON: Law Society of Upper Canada.

Kay, F. (1997). Balancing acts: Career and family among lawyers. In S. B. Boyd (Ed.), *Challenging the public/private divide: Feminism, law and policy* (pp. 301-335). Toronto, Canada: University of Toronto Press.

Kay, Fiona M. and Elizabeth Gorman. 2008. "Women in the Legal Profession." *Annual Review of Law and Social Sciences* 4: 299-332. Reprinted in: Andrew L. Kaufman and David Wilkins (editors.). *Problems in Professional Responsibility*. Fifth edition. Durham, NC: Carolina Academic Press, 2010.

Kay, F., and Hagan, J. (1995). The persistent glass ceiling: Gendered inequalities in the earnings of lawyers. *British Journal of Sociology*, 46 , 279-310.

Kay, F., and Hagan, J. (1998). Raising the bar: The sex stratification of law-firm capital. *American Sociological Review* , 63 , 728-743.

Kay, F., and Hagan, J. (1999). Cultivating clients in the competition for partnership: Gender and the organizational restructuring of law firms in the 1990s. *Law and Society Review* , 33 , 17-555.

Kay, Fiona M. and Jean E. Wallace. 2010. "Is More Truly Merrier?: Mentors and the Practice of Law." *Canadian Review of Sociology* 47(1): 1-26.

Lapeyre, N. 2006a. "Comprendre les temporalités de la féminisation des groupes professionnels," in *Les temporalités sociales: Repères méthodologiques*, under the dir. of G. De Terssac and J. Thoemmes, Toulouse, Octarès, p. 133-147.

Lapeyre, N. 2006b. *Les professions face aux enjeux de la féminisation*, Toulouse, Octarès.

Lapeyre, N. et N. Le Feuvre. 2005. "Féminisation du corps médical et dynamiques professionnelles dans le champ de la santé", *Revue française des affaires sociales*, Vol. 1, p. 59-81.

Lapeyre, N. et N. Le Feuvre. 2004. "Concilier l'inconciliable? Le rapport des femmes à la notion de 'conciliation travail-famille' dans les professions libérales en France", *Nouvelles questions féministes*, Vol. 23, no 3, p. 42-58.

Lapeyre, N. *Les professions face aux enjeux de la féminisation*. Toulouse, Octarès, 2006, 214 p.

Le Feuvre, N. 2006. "Le genre des temporalités sociales", dans *Les temporalités sociales: Repères méthodologiques*, under the dir. of G. De Terssac and J. Thoemmes, Toulouse, Octarès, p. 29-44.

Le Feuvre, N. 1999. "Gender, Occupational Feminisation and Reflexivity", in *Restructuring Gender Relations and Employment: The Decline of the Male Breadwinner*, under the dir. of R. Crompton, Oxford, Oxford University Press, p. 150-178.

Le Feuvre, N. et N. Lapeyre. 2011. "Féminisation et aspiration à une meilleure 'qualité de vie': Dynamique majeure des classes moyennes supérieures", in *Cadres, classes moyennes: Vers l'éclatement?*, under the dir. of P. Bouffartigue, C. Gadéa and S. Pochic, Paris, Armand Colin, p. 224-233.

Le Feuvre N., Walters P., (1993), « Egales en droit ? Féminisation de la profession juridique en France et en Grande-Bretagne », *Sociétés contemporaines*, N16, décembre 1993, p.41-62.

Marshall, K. (2008). Father's use of Parental Leave. *Perspectives on Labour and Income* 20. 5-14.

Sheehy E, McIntyre S, (eds.) (2006), *Calling for Change: Women, Law, and the Legal Profession*, Ottawa: Univ. Ottawa Press,

Suseno, Yuliani, Ashly H. Pinnington, and Dr. John Gardner (2007). Gender and the Network Structures of Social Capital in Professional-Client Relationships. In *Advancing Women in Leadership* Online Journal Vol. 23, Spring 2007. 13 pages.

Tremblay, Diane-Gabrielle (2013): Can Lawyers take parental leave and if so, with what impacts? The case of Québec. *Employee Responsibilities and Rights Journal*. Volume 25, Issue 3 (2013), Page 177-197. Publié sur "Online First" on SpringerLink:<http://www.springerlink.com/openurl.asp?genre=article&id=doi:10.1007/s10672-013-9214-1>

Tremblay, D.-G. (2012a). *Conciliation emploi-famille et temps sociaux*. Québec : Presses de l'université du Québec.

Tremblay, D.-G. (2012b). *Articuler emploi et famille; le rôle du soutien organisationnel dans trois professions*. Québec : Presses de l'université du Québec.

Tremblay, Diane-Gabrielle (2012c). Work-family balance; is the social economy sector more supportive and if so, is this because of a more democratic management ? *Review of Social Economy* vol. LXX, no 2. Pp- 200-232. (<http://www.socialeconomics.org/>).

Tremblay, D.-G. (2004) *Économie du travail; les réalités et les approches théoriques*. Montréal: Éditions St-Martin.

Tremblay, Diane-Gabrielle , Catherine Chevrier and Martine Di Loreto (2006). Le télétravail à domicile : Meilleure conciliation emploi-famille ou source d'invasion de la vie privée ? *Interventions économiques*. No 34 www.interventionseconomiques/revues.org

Tremblay, Diane-Gabrielle and Émilie Genin (2011). Parental leave: an important employee right, but an organizational challenge. . *Employee Responsibilities and Rights Journal*. en ligne : DOI: 10.1007/s10672-011-9176-0 Online first : <http://www.springerlink.com/openurl.asp?genre=article&id=doi:10.1007/s10672-011-9176-0>

Tremblay, Diane-Gabrielle et Émilie Genin (2010). Parental Leave: When First Hand Experience Does Not Measure Up To Perception. *International Journal of sociology and social policy*. Volume 30 (2010) issue 9/10.

Tremblay, Diane-Gabrielle et Émilie Genin (2010). IT Self-employed Workers between Constraint and Flexibility. *New Technology, Work and Employment*. 25, 1 , pp. 34-48. <http://www3.interscience.wiley.com/cgi-bin/fulltext/123293662/PDFSTART> (Publié en ligne janvier 2010).

Tremblay, D.-G. and E. Mascova (2013). *Les avocats, les avocates et la conciliation travail –famille*. Montréal : Éditions du Remue-Ménage.

Tremblay, Diane-Gabrielle et Elmustapha Najem (2013). Les mesures de conciliation emploi-famille au Canada : de lentes avancées ?. dans Tremblay, D.-G. (2013, dir.). *Temporalités sociales, temps prescrits, temps institutionnalisés.* Québec: Presses de l'université du Québec. P. 33-48.

Vosko, Leah F., Nancy Zukewich and Cynthia Cranford 2003. Non-standard Work and Labour Market Precariousness. *Perspectives on Labour and Income*. Ottawa: Statistics Canada. September. Wallace, J.E. (1999). Work-to-nonwork conflict among married male and female lawyers. *Journal of Organizational Behavior*, 20, 797-816.

Wallace, J.E. (2004). Motherhood and career commitment to the legal profession. *Research in the Sociology of Work*, 14, 219-246.

Wallace, J.E. (2006). Can women in law have it all? A study of motherhood, career satisfaction and life balance. *Research in the Sociology of Organizations*, 24, 283-306.