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DESPITE GAINS, CHALLENGES REMAIN FOR WOMEN LAW PROFESSORS

By Libby Sander

Tenured professors often claim to have the best job in the world. They are paid to teach and write about cutting-edge topics, their job security is unshakeable, and the revered title of "professor" precedes their names in perpetuity.

Yet women, despite representing upwards of 40 percent of all law students for two decades -- 48 percent of all law students in 2005-2006 alone, according to the American Bar Association -- are still the minority among tenured professors at the nation's law schools. They are roughly one-fifth of all law school deans, a quarter of full professors and slightly more than a third of all law school faculty, according to recent statistics from the Association of American Law Schools.

The percentage of women holding full professorships is creeping along at a snail's pace, while the percentage of women holding contract teaching positions -- positions without the prestige and job security of tenured slots -- continues to increase steadily, according to AALS statistics. "We're going backwards quickly," said Marina Angel, a professor at Temple University's Beasley School of Law in Philadelphia. In February, Angel issued a "Call for Action," urging her colleagues in legal academia to start tracking the types of teaching positions held by women at their schools. "There were gains made starting in the 1970s and lasting through probably the mid-to-late 1990s, and it's been a very fast retreat since then."

The result is a legal academy that, at a glance, appears to be diversifying. But change has been slow to come to the upper reaches of law school faculties.

"The tenured positions are going to males and women are being put in the contract positions of clinicians, legal writing instructors, adjuncts, and administrators with part-time teaching responsibilities," Angel said. "Young women are coming into academia thinking equality rules. They do see women in the classroom. They do not understand that those women are paid less and are in less prestigious positions."

In the 2004-2005 academic year, women comprised 19 percent of all deans, according to the AALS. That same year, on the tenure track, women were 25 percent of full professors; 45 percent of associate professors; and 46 percent of assistant professors.

While full professors gained five percentage points in the seven academic years since 1998-1999 -- from 20 to 25 percent -- growth was far slower, or nonexistent, in the associate and assistant tenure-track positions. In 1998-1999, women held 43 percent of associate and 49 percent of assistant professor positions.

Among contract professors, who are not on the tenure track, women were 55 percent of professors, an increase from 39 percent in 1998-99. Sixty-two percent of contract associate professors, 65 percent of assistant professors, and 66 percent of all lecturers were women, figures that have held steady for the past several years.

"When you look at the face of a law school as a prospective student, you don't necessarily see the underpinnings of contract versus tenure," said Arin Reeves, a diversity consultant with the Athens Group who holds a law degree and a doctorate in sociology. "So law schools actually can show a very diverse face, but behind that facade there are some real issues in terms of true equity and true opportunity."

Slow gains

At Illinois' nine law schools, women lag far behind their male peers in holding tenured or tenure-track positions. Data collected by Chicago Lawyer shows women hovering between one-third and one-fifth of all tenured faculty members at the schools. (Most schools reported data from the 2005-2006 academic year.)

Here is a glance at how women fare:

- At the University of Chicago Law School, there are seven tenured women and 44 tenured men;
- DePaul University College of Law has nine tenured professors who are women and 20 who are men;
- The University of Illinois College of Law, in addition to having the state's only female law school dean, has 22 tenured male professors compared to seven tenured females;
- John Marshall Law School has seven female and 27 male full professors;
- Chicago-Kent College of Law has 11 female and 30 male tenure-track and clinical professors;
- Loyola University Chicago School of Law reported four female and 15 male full professors;
- Northern Illinois University College of Law reported having two female and seven male full professors;
- Northwestern University School of Law reported 11 tenured female and 28 tenured male professors;
- Southern Illinois University School of Law has 12 male and no female full professors.

Minorities are making even slower gains among law school faculty, though all of the law schools reported having at least one full professor who is a minority and most had a small handful of minority men and women currently on the tenure track.

"The law has tended to move at a glacial pace in keeping up with the realities of our society. We are living in an extremely diverse society along all measurable scales -- economics, race, gender. Students can only benefit from having someone who brings forward just a slightly different take on it," said Sacha Coupet, who is halfway through her six-year tenure track at Loyola University Chicago School of Law.

"Is it better to learn in a narrow lens or a broad lens? The broader the better. I think you can only do that when you don't produce carbon-copy faculty members," she said.

Changes afoot

Speculation abounds as to why women of all races lag behind men in pursuing and achieving tenured positions and why they appear to be concentrated in clinical and adjunct positions.

Some say the gap is the result of a complicated calculus of work-life demands, tenure requirements still tailored to a system when men were the only ones going into academia, and a lack of mentoring early in women's legal education.

A professor's journey along the tenure track is a rigorous route of teaching, publishing, and serving on university committees that, if done successfully, results in a tenured position after five to seven years. But women and minorities face additional challenges that their white male colleagues do not, some professors said.

For women, the tenure track often coincides precisely with the childbearing years. And for minority tenure-track professors, the path tends to involve time-consuming extra responsibilities like serving as mentors to the many students of color who flock to them, others said. At the same time, law schools are undergoing a transformation of sorts. Demands for scholarship and published works have increased in recent years as many law schools abandon the traditional professional-school approach in favor of a more interdisciplinary, graduate-school environment.

Then add to the mix an increasingly diverse law student population in search of professors

who look like them and can teach topics they're interested in -- and the result is a perfect storm of hiring demands.

"The pool of people going into academia is absolutely disproportionately white male, so we have to work hard if we're hiring to think about diversity issues," said Katharine Baker, associate dean and professor of law at Chicago-Kent College of Law who has been a member of that school's hiring committee for years. "You have to think hard about whether you're bringing women through."

David Van Zandt, dean of Northwestern University School of Law, sees parallels between tenure-bound women and women aiming for the partnership ranks of law firms. A 2004 study by NALP showed that women were 42 percent of associates and 18 percent of partners at major Chicago law firms, while lawyers of color were 13 percent of associates and 4 percent of partners. "I think it's the same problem," Van Zandt said. "But unlike law firms, we don't have as many [women] coming in."

Coupet, of Loyola, attributes the dearth of women and women of color in law school faculties to mentoring that takes place while tenure-track applicants are still in law school. Some law schools are noted for producing graduates who go into legal academia in large numbers, she said. But if students aren't plugged into that kind of mentoring environment early on, it takes a great deal of motivation by students and teachers alike to begin the grooming process that ultimately makes for an attractive tenure-track candidate.

"I was lucky enough to sit on the appointments committee last year, and it was eye-opening," Coupet said. "I had been very critical, off-the-cuff, of unfair hiring practices, and then here I am on the committee and I myself am struggling to find [diverse] applicants who could both meet our requirements and pass a faculty vote."

"It's a small pool to start out with," Coupet said of the number of law school graduates who wish to pursue an academic career. "But I don't think students in law school are being mentored to go into legal academia."

For many of the women who do hold tenured positions at Illinois law schools, their success stories are a blend of grueling hard work, support from their universities and families, and the implicit understanding -- especially if they are women of color -- that their days will be long and the demands on their time numerous.

It could be precisely those demands that explain the high numbers of women holding less prestigious but more flexible contract and clinical jobs, some professors said. Legal writing professors, for example, are "clearly disproportionately female," Baker said. "It's a very hard job, but it doesn't have a lot of the other stresses that come with scholarship positions," she said.

Van Zandt agreed. "The pool of people on the tenure-line positions is different from the pool on legal writing," he said. "At most law schools, the people teaching the basic legal writing tend to be women. It's true here [at Northwestern]. I think it's because there's a big supply of people and they tend to be women, given the work-life balance."

Whatever the factors, academics agree that law schools must figure out how to recruit and retain women professors of all colors or risk shutting out the valuable perspectives that women and women of color bring to a legal education, they said.

"Unless law schools want to say, in 15 to 20 years, 'We only want to be able to choose our faculty from the male half that graduated from law school,' we have to start re-thinking our system," Reeves said.

Striking a balance

Back when law professors were lawyers who left their law practices to join a law school faculty, they occupied a role that was neither practitioner nor academic -- and did not face the same demands for writing and scholarly research that their peers in other university departments did. A generation ago, that all began to change.

"Law schools are thinking of themselves more as graduate programs compared to professional schools, and to get hired these days it's pretty hard to do it without a lot of writing," said Kimberly Yuracko, a recently tenured professor at Northwestern University School of Law who holds a Ph.D. in political science in addition to her law degree. "A lot of people have Ph.D.s. The general hiring trend is toward an interdisciplinary focus."

Once a faculty member is hired into the tenure track, the clock begins ticking -- and the frenetic game of juggling teaching demands, research, and committee work begins. It's a full load for anyone, professors said. Baker, at Kent, calls anything left over at the end of the teaching day "residual" energy. Those reserves of intellectual stamina must then be harnessed and turned into scholarly work in order to advance along the tenure track, she said.

"You take the residual brain power you have left and turn it into articles," Baker said. "The mark of your success is how much you put that residual energy to use."

Some professors said that model worked fine in an era when the vast majority of law school faculty were men with stay-at-home wives. But now, the assumption that time not spent at school can be used to churn out scholarly articles can create a tricky juggling act.

"For me and for most women, the typical challenges are trying to figure out how you can balance work and everything else you have to do," said Margareth Etienne, a tenured professor at the University of Illinois College of Law. "The time you need to be the most productive is the time you're most likely to be having kids, getting married, and doing all those kinds of things."

When Etienne started on the tenure track five years ago, she was married but had no children. Now she has two children. "Two in five years is hard enough, but while on the tenure track it's even harder," Etienne said.

Still, research and publishing are critical elements in the quest for tenure, and can hardly be shelved for a year or two while children are being raised, professors said.

"Publishing is really important," said Michele Goodwin, a tenured professor at DePaul who is also the director of DePaul's Health Law Institute and the director of the Center for the Study of Race & Bioethics. "Honing those research skills. Being able to shape one's voice. Getting your name out there. That's all really important."

Many schools have adopted policies that allow women on the tenure track to tack on an additional semester or year if they take time off for maternity leave. But some women said that while they appreciate the gesture, they just don't feel comfortable tampering with a process as political and unpredictable as gaining tenure.

"If you want an extra year, nobody would look twice about taking it," Etienne said. "But when you're up and the tenure and promotions committee is looking at your file, and they say, 'This other person published four articles in five years, and you published four in six,' I'd be surprised if that didn't have some subconscious weight. Taking extra time doesn't hurt you -- it's not supposed to hurt you -- but I felt uncomfortable not knowing who would be on the committee and how they would react to it."

The momentum of teaching and publishing is difficult to regain after a break, Reeves said. "You're gone for a whole year at a time when your male colleagues were around and publishing and gaining momentum, so you're not just a year behind, you're more than that."

But as more women gain the upper reaches of faculty, they can lend a hand to their younger colleagues still making the climb by providing tips on how to maintain that momentum, she said.

An older female law professor once told Reeves that her advice to younger female professors was to have two or three articles "in the hopper" that they could release once they went on maternity leave. "It bridges the gap when you're not there," Reeves said.

Spread too thin

Sacha Coupet likes to leave her office door open to the Loyola law students enrolled in her classes.

As one of only a handful of minority professors at Loyola -- and not too far removed herself from the rigors of law school -- Coupet enjoys connecting with students who seek out her company. It's important for them to form relationships with professors outside of the classroom, she said, and even more critical that minority law students feel welcome at the law school.

"Women and students of color will beat a path to your door," Coupet said. "They will line up just to talk with you to try to make a connection."

That would be fine if all Coupet had to do to gain tenure was teach and mentor students. But the half-hour conversations here and there can quickly turn a 10-hour day into a 14-hour day -- and it's hard to sit and chat with students without feeling like there isn't a moment to waste, she said.

"The demands of students on people of color is so much greater," Baker said. "They're asked to participate in many, many extracurricular activities. They're looked to as mentors for a substantial number of students."

Women of color said they understand the need for students and faculty ask for a few minutes to talk, or to serve on a hiring committee, or to be the faculty advisor for a student group. But they also said the demands are more numerous and more frequent than those made of their white colleagues.

The flurry of requests can be a "double-edged sword," said DePaul's Goodwin. "If the law school did not have representation of women and people of color on those committees and those committees engaged in decision-making, we should be concerned," she said. "But those committees can be quite time-consuming and can detract from the time one might spend on his or her scholarship."

Etienne agreed. "It's complicated," she said. "To the extent that a school really takes seriously the idea that they want to increase women on faculty, they have to put women on the hiring committee. But if you've only got one woman on faculty, she gets stuck. And the appointments committee is a lot of work. It's not because they're out to get you. It's a reality, but it still feels unfair."

The endless flood of requests can quickly become overwhelming, and often forces young professors to do something that a tenure-bound scholar never wants to do: "You have to say no a lot," Etienne said. "You have to be the bad guy."

Faculty of the future

A decade ago, Northwestern University School of Law was "behind the curve" in recruiting top-flight women scholars, Van Zandt said.

Today, the university boasts an accomplished cadre of senior women professors: Shari Seidman Diamond, a foremost expert in juries; Dorothy Roberts, a leading scholar in family

and welfare law; Lee Epstein, a noted expert on judicial behavior; and Kathy Spier, who doubles as a professor at the Kellogg School of Management and focuses in economics models of contract and liability rules.

The university has also recruited professors like Yuracko and Janice Nadler, both young professors with Ph.D.s in political science and history, respectively.

But these women still represent a small fraction of the total tenured faculty. Van Zandt admits the job is far from done. "The issue is getting more people in the door," he said. The diversity of talent is critical to students, he said. With "a single, monolithic faculty, they're going to replicate themselves and it's going to be all white males. Now, we're seeing schools open up a bit and we're seeing more room for lots of other interests in law."

Situating women in the top faculty slots serves another purpose beyond bringing a range of scholarly interests to the course catalogue: If women law students see the most prestigious positions in both administration and teaching held by females, the idea of pursuing a career in legal academia may well take root, professors said.

"I am hopeful that over time, given the number of women graduating from law school seeing women in administrative positions of power, that gender will probably work itself out," Baker said. "The far more compelling problem is trying to diversify more."