A major research study into women in the law is currently underway at University College Cork. Professor Irene Fallon reveals some of the findings to date and foresees certain results.

In 2002 Ivana Bacik, Cathryn Costello and Eileen Drew, conducted what is still the most comprehensive study of its kind in Ireland looking at *Women in The Law*. The report which was published in 2003 listed 50 recommendations aimed at addressing the lack of progress of women in all parts of the legal profession. Generally the recommendations were aimed at addressing particular obstacles which faced women but some of the issues raised did however, affect all members of the profession. So for example, problems surrounding the growth of the long working hours culture driven by hourly billing structures and the consequent dynamics of fee earning within firms were perceived as being particularly family unfriendly. Even at this time many men who responded to the surveys conducted identified this feature of legal practise as being increasingly problematic in terms of family and work/life balance.

Despite the truly impressive quality of the work underlying the original project, no follow-up studies had been conducted. Consequently, 15 years later we did not know how many of these recommendations had actually been implemented and there was certainly evidence that many of the barriers and obstacles continued to be in place, and in some cases seemed to be even more acute. This seemed to be the case despite significant numbers of women entering law schools and significant numbers of women qualifying in at least one branch of the profession, namely as solicitors.

The Irish Women Lawyers’ Association has embarked on a research project to conduct an audit of progress made to date with the recommendations of the Gender (in)Justice project. (The IWLA was formed in 2002 following a conference held by women working in the law in Ireland, from both North and South, held in Dublin back in November 2000. It is affiliated to the European Women Lawyers’ Association.)

The aim of our current research is to conduct an audit of the current state of affairs with a view to identifying how many recommendations of the report have been implemented. We are also interested in identifying awareness of the original report, or the issues which were raised in the report. Finally, we hope to conduct a survey of individual experiences of legal practise.

**Progress**

We started our research project in early 2016. We prepared letters to be sent to a range of entities from law firms to those involved in legal education including university law schools and the professional bodies. We composed specific questionnaires based on recommendations specifically directed at the relevant entities. As with all empirical studies the challenge was to ensure the surveys were created in a way which did not suggest particular answers. More challenging was the issue of how to collate and summarise answers. As we set about establishing structures for this final challenge we realised that particular kinds of information were already available to us and so we conducted a desk survey garnering information from various sources including but not limited to, the following:

- Information from the Law Library at www.lawlibrary.ie
- We also took information which had been published in the the *Bar Review* and in particular, we engaged with Grainne Larkin, BL, chair of the working group for Women at the Bar.
These various sources provided us with a range of statistics which allowed us to make some preliminary findings regarding progress since 2003. These were presented at an IWLA meeting in April of this year and are described below.

This summer we will resume work on the empirical part of the research project with a view to publishing a report under the auspices of the IWLA.

Some Findings to Date

As expected, given the numbers of women students of law, we have found a positive numerical trend in the number of women practising law. The increase of women practising as lawyers is expressed most clearly in the solicitors’ branch of the profession. As mentioned earlier, whilst 41% of solicitors in 2002 were female, as at the end of 2014, just over 50% of solicitors were women. It is clear therefore that as regards the sorts of barriers which faced women during the last century in terms of entry, these barriers no longer exist. Women can clearly study law without obstacles and can progress to qualification in the professions. As we will see however, beyond these initial boundaries the obstacles are present and in many ways less surmountable because of their complex nature. These are obstacles which lack transparency and lack straightforward solutions. This phenomenon, often termed the ‘glass ceiling’ is also described (by Ivana Bacik and others) as a ‘sticky floor’. It is common in other areas of activity which are closely related to the activities of this author in higher education and in relation to the progression of women as business leaders.

The picture of how women are faring in the law is complex and nuanced, and so it is important not to leap to conclusions which are entirely negative or entirely positive or optimistic. The figures present some interesting food for thought. We have seen considerable progress in terms of public service appointments, so that while in 2002 only 21% of judges were women, as of November 2016, 35% of judges are women. This represents an increase of 14 percentage points in as many years. Similarly, senior public positions in the legal world such as that of the Attorney General, the Director of Public Prosecutions, the Chief State Solicitor and the Revenue Solicitor have been occupied by women. On the other hand, in 2002 34% of barristers were women but as of 2015 that figure stood at 39%. This represents a proportionally smaller increase of representation of women at 5 percentage points. Disappointingly the number of female barristers who were senior counsel only increased by 1 percentage point from 5% in 2002 to 6% in 2015. We do not have figures for partners, equity partners in firms as yet, but we hope to obtain these through our empirical work this summer. As things stand some of our figures are now over a year old and we hope to update these for the final report.

Further Work and Expected Results

As much work as possible has been done by desk survey. It is now necessary to expand our study by completing the empirical work described above.

Based on current research so far, we expect our findings to illustrate positive numbers in terms of women obtaining legal education and qualifications and participating at the outset in legal careers. It is important however not to overlook the complexity of this picture. It is obvious that initial barriers to entry for women into legal education and professional training are non existent now.

Similarly progression to early stages of career
in practice do not present as being problematic. What is clearly more problematic is progression into the better paid and more influential roles of senior counsel, partner and equity partner. There has been considerable progression in terms of judicial appointments, but again the figures present a mixed picture which is not entirely positive. The lack of positivity is underscored by the fact that for over a generation of students, the majority of law students have been women. In this regard these figures represent a significant attrition rate, rather than a positive story of linear progression.

Suggestions for Further Research and Conclusion

It is interesting to note that the original Gender (in)Justice report included the following suggestions for further research:

• More research is needed into the histories of the ‘pioneers’ – the early women lawyers who paved the way for future generations.
• The professional bodies should institute further research into the extent of gender disparity in lawyers’ pay. We will do some empirical work on this during the summer of 2016.
• Where particular problems or issues are identified from our data on a gendered basis, the professional bodies should sponsor further research to address these problems. For example, one of the issues which is clearly problematic is the ‘long hours culture’ which has become a feature of Irish legal practice in the last two decades. There is much work to be done in relation to the impact of this way of practising law on work/life balance for all legal practitioners. The action research model utilised by the EU research project on women in higher education is aptly suited to addressing this type of issue.
• Most importantly, in this writer’s view, the issue of female participation in the law (as is the case in relation to female participation in other areas of economic or political activity) continues to be viewed as an issue of linear progression with women starting from a low level of participation and progressing over time towards a level of equal or near equal participation with men. This is the case with the work which we have presented here. This perspective tends to offer an optimistic and positive picture, and leads to the mistaken assumption that it is only a matter of time before women secure parity with men in the particular field of activity, in this case legal practice. However, this way of looking at this issue hides a much more serious problem which is only revealed when one considers the issue in terms of attrition rather than progression. Female participation in all aspects of legal practice presents this issue in particularly stark terms. As has been mentioned in this piece, from the late 1990s onwards female participation in law schools was more than 50%. This represents nearly 30 years worth of graduating classes which started out with more women than men. As we know women are simply not present in these numbers in the legal profession in its entirety. If it were the case that we lost similar numbers of male graduates in a profession over a period of 30 years, this would be addressed as a national emergency. It is time to turn this problem on its head and ask what has happened to cause such significant attrition rates of women lawyers?

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