

Diane-Gabrielle Tremblay et Elena Mascova

Conflict between professional engagement and temporal regimes of lawyers: the challenge of work-life permeability

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Diane-Gabrielle Tremblay et Elena Mascova

Conflict between professional engagement and temporal regimes of lawyers: the challenge of work-life permeability

Introduction

1 Studies on the law profession indicate a difficulty in accessing the top levels of organizations and sometimes to simply remain in a large office (Kay, 2002; Brockman, 2000, 1992). Some surveys show that the conflict between work and family and personal life, or lawyers' temporal regimes, can be a major reason for leaving the profession (Brockman, 1994). Yet, with the growing feminization of the profession this raises more questions because the trend will be difficult to reverse or even stabilize, according to the Québec Bar Association (Barreau du Québec, 2011). This raises the question of the attractiveness of certain types of law practice, such as private practice in large offices, as we shall see. The stakes are high - to attract top talent and keep them in the long-term, after investing in their training at the university and in the company.

2 "The reality of women, often made up of maternity and responsibility for a large part of family responsibilities, influences the decisions they take with regard to their professional life. [...] The lack of adaptation of the profession to a reality that is far from neutral inevitably affects the quality and competence of the legal services rendered to the public. The departure of women from private practice means that the legal profession is losing much of its best and brightest workforce in key practice areas." (LSUC, 2008, quoted in Barreau, 2011, 52)

3 However, in our research on work-family reconciliation, we do not limit the question to women only, especially in an environment where young men want to assume their role as fathers. The traditional "male breadwinner model" and its translation in large law firms, as it was developed by previous generations, is therefore increasingly challenged by lawyers, including young men who want to live their family lives very differently from those of their elders (Tremblay and Dodeler, 2015). This is partly due the increase in dual-earner couples where each spouse is pursuing a career, sometimes both that of lawyer. We thus observe the emergence of new forms of work organization and work-family articulation (Lapeyre, 2006a, 2006b; Le Feuvre and Lapeyre, 2011; Tremblay and Mascova, 2014, 2013). However, we can ask whether large firms have adapted to the new realities of lawyers who wish to have a family life in addition to their professional life, or whether these lawyers need to opt out and move to other workplaces, smaller offices or self-employment status, rather than maintain a career in a large law firm, even if this was their initial objective.

4 In this article, our research question is whether it is possible to reconcile the time commitment required of professional lawyers, mostly in large offices, with the time demands of family life. We ask as well if the lawyers who wish to combine work and family life are somehow forced to choose specific forms of practice (self-employment or small office, as opposed to large offices). We will try to determine whether it is possible to reconcile the professional commitment in the traditional mode of practice in the largest law firms, with a family commitment or whether, instead, lawyers, and women in particular, need to opt for other forms of law practice, including self-employment. In fact, among the possible changes in terms of employment situations, those relating to the transition to self-employment status could be hypothesized as being the ideal solution to solve the time conflict. Before we address this issue, we present the theoretical framework and methodology of our research.

Theoretical framework: analysis based on the profession

5 Recent work has proposed to "enter by the profession" to study the link between personal and professional life (Lapeyre, 2006a, 2006b) in occupational settings. Fusulier (2011) suggests that the profession is an appropriate unit of analysis to the extent that it "works on" the

individual in his/her relationship to his gainful activity and, consequently and interdependently - including in a subjective and symbolic way -, in his/her non-work activities (including family, personal and other social activities). Thus, the experience and the relationship of the individual to his/her profession as well as to his/her entire life outside work would include structured constraints, rules and professional cultures, that can be defined by the concept of the professional ethos, particularly well applicable to professional occupations with a professional order as is the case in law. Our reading of the various works on the legal profession (Brockman, 2006, 2001, 2000, 1992; Kay & Hagan, 1995, Kay, 2002) leads us to conclude that this profession is ideal for such an approach.

6 Indeed, the legal profession is well organized institutionally, especially regarding access to the profession and training, but also its exercise. It is a closed internal labor market in the sense that in order to practice as a lawyer in Quebec, one must belong to the Quebec Bar, which means passing through the Bar School, but also adhering to professional standards. The profession is subject to regulation in different areas (access, conditions of practice, standards to remain a member of the Bar, etc.). Also, there is a strong sense of belonging among members of the Bar. It is a place of long term professional socialization in an internal labor market, also regarded as demanding in terms of personal, subjective and emotional investment.

7 However, membership in the Québec Bar and the existence of a common set of tests to be passed for membership, as well as a code of ethics that defines the rules of conduct, should not obscure the segmented nature of the profession. Indeed, the diversity of contexts of practice within the profession can be described as a form of segmentation of the labor market (Tremblay, 2004). It is impossible for one to master all the knowledge and know-how in all fields of law, which makes specialization necessary.

8 We thus find a certain segmentation and diversity in practice patterns; we find diversity in :

- Modes of practice of law (legal advisors for individuals, businesses and groups, defense counsel, Crown counsel, mediator, arbitrator, involvement in the development of legislation, etc.);
- Places of practice (law firms, small or a large, self-employed working alone, corporate litigation, working for associations, SMEs or large firms, government, eg Department of justice, Ministry of Health and Social Services, etc. ; public organizations, such as Health and Safety Commission, Liquor Board, etc.; or international agencies, such as United Nations, International Criminal Court, etc.);
- Statutes (associates, employees, self-employed);
- Income and prestige, as well as inequalities in careers.

9 Sociology of work and more particularly the sociology of the professions can help to understand the rules that govern a given set of norms and standards - explicit and implicit – which organize this profession – in other words, its ethos (Tremblay and Alberio, dirs., 2015). The concept of professional ethos seems appropriate to capture the operational logics that are specific to an occupation and that define the use of different devices.

10 "The ethos is a form of mediation between the statutory level (for example, the right to take parental leave), and individual and collective behavior with respect to this right, even if they are not unequivocal. [...] Indeed, the ethos can act as a positive or negative social and personal factor which can convert a resource (a legal right in the case mentioned) to "function effectively." [...] This concept has a heuristics intended to define the relationship between collective history and logic of action, inclusion in a social environment and practices, all this in a more from a structurationist than a deterministic perspective. " (Fusulier, 2011-our translation).

11 Using this approach based on the profession, we try to consider "not only the characteristics of the profession studied, but also discourse, and individual and collective judgments and, of course, practices" (Fusulier, 2011- our translation) to determine how these judgments, these practices and discourses of colleagues can influence the behavior of individual lawyers and their ability to find a place in a specific area of practice, mainly large offices.

12 The use of the concept of ethos to study the legal profession is all the more interesting as it is possible to question the unity of the professional culture of lawyers beyond the diversity

of places and spaces in which they work. Specifically, do lawyers practicing in different environments interpret this ethos in the same way and do they adopt a common professional relationship vis-à-vis the career or, conversely, do they develop different views and leave certain modes of practice (large law firms) if they wish to become more involved in family life ?

- 13 When introducing the concept of professional ethos, especially in a mixed environment, it seems necessary to address its relationship to another dimension, that of gender. Indeed, analyses of professions and their ethos should not mask the effects it has on gender and vice versa. For Lapeyre and Le Feuvre (2005), occupations and their ethos are based on the vision of a specific gendered contract, reflecting a traditional and binary (man-woman /professional and domestic) gendered division of labor, which has an important symbolic power even when actors' modes of practice reflect a real diversity. Within the legal profession, the gendered contract is characterized by overinvestment of women in professional work in relation to the average working time of women in the society (Lapeyre, 2006a, 2006b). As for men, a strong professional investment is observed and a consequent underinvestment in the domestic sphere.
- 14 Does the feminization of the profession induce specific tensions with respect to time? According to Lapeyre (2006b: 18), the feminization of professions clearly involves a redefinition of the gender contract "whether work organization or redefinition of new (family and professional) temporalities; many options are open, ultimately leading to a questioning of the traditional social contract between the sexes".
- 15 However, as the profession is embedded in the wider context of society, it is likely that there are areas of tension at the interface between society and the legal profession. We wanted to analyze the influence of different factors that can affect the articulation at each level. At the meso level are the working environment and the home environment, which are the main adjustment zones. Concerning the home environment, we tried to determine the factors that trigger negotiations as to time availability of both spouses and similar questions. As for the professional environment, we wanted to identify the modes of socialization and construction of professional identities. The different types of professional practices and constraints are also taken into account. The type of employment may also have an impact on the gendered division of labor as well as the professional environment. There are also individual tensions and resistances. At the heart of the system are personal visions and representations of individual achievement - especially with regard to motherhood and family, the social image of the good mother – work commitments, gender and married life.
- 16 We must also consider the reflexivity of individuals who play with the rules and standards imposed by the professional ethos by adapting their daily behavior, thus moving borders by adopting new models. In this regard, Le Feuvre and Lapeyre (2011) argue that the increase of women in the professions can lead to a "potential democratization of gender relations" in both the private and public spheres. This remains to be seen.
- 17 Our research question is whether it is possible to reconcile the time commitment required of professional lawyers, especially in large offices, with the time demands of family life. The question arises at a time when the profession is undergoing rapid feminization, so that the ethos of gender could modulate or call into question traditional time requirements and traditional practice patterns related to the professional ethos.
- 18 Using the concept of professional ethos to study the impact of belonging to a profession on time commitment to the profession is interesting because it shows how this ethos can "impact on" individuals in their relation to their profession and its characteristics, including the time dimension. However, it is interesting to examine the possibility of a reverse movement, that is a change in the professional ethos under the influence of societal changes. Basically, we can ask to what extent the professional ethos is permeable to the values and standards of a given society and, in particular, values or family involvement put forward by women (Tremblay, 2012a, 2012b) but also by many young fathers (Tremblay and Dodeler, 2015) ?
- 19 According to Fusulier (2011), the professional ethos is not intangible. Structural parameters of the context contribute to the shaping and eventual transformation of the established ethos,

including elements such as changes in the legal context, the socio-demographic structure, or an increase in feminization. (Tremblay, 2012b)

20 Behaviors can begin to change as a result of change of standards and especially the difficulty of many working parents to accept long working hours, required or imposed by the employer. If there is change, where and how is it observed? Or, conversely, do lawyers choose other modes of practice, self-employment in particular, to avoid these excessive working hours which are difficult to reconcile with a family life? To answer this question, we studied the situation of individuals and their professional relationship to working time in two ways, i.e. the daily occupations and the long term career perspective. We observe that if most are deeply committed to their profession, they are also very likely to move towards new forms of practice (self-employment, small private office often) to get away from the rigidity and the long hours required by large offices.

Method of research

21 The aim of this qualitative research was to study the careers of lawyers in relation with work-family reconciliation and working hours. In this article, we focus specifically on what is at stake in terms of the time commitment in the work and family spheres and how it affects careers and the type of legal practice. We investigated various dimensions, which are not all included here : work and its constraints, family life and daily organization, work and family articulation, management of working and family time, and external support services. We did not want to limit ourselves to a synchronic vision, but tried to adopt a life course perspective. We were interested in professional and family life course, the choices made and consequent sacrifices, in order to understand the type of practice chosen according to the time commitments.

22 To recruit participants, a call for volunteers was published on the website of the Quebec Bar, with a description of the objectives of the study and an invitation to contact us. In all, 115 lawyers volunteered, of which 46 were selected to participate in the study and interviews, 17 men and 29 women. This is of course not a statistically representative survey since we wanted to ensure a diversity of practice settings and ideally equal numbers of women and men in each group (which was not always possible, as shown in Table 1) to better understand the realities of the various sectors. The objective was to understand time issues and adaptations of individuals in terms of practice and career. We thus selected participants from various types of firms, representative of the diversity of professional practice environments (table 1), in order to answer our research question, namely, how the time commitments required by the profession influence the career and type of law practice.

Table 1. Participants by gender and type of practice

Type of practice	Men	Women
Public/parapublic	7	6
Companies (litigation, etc.)	3	6
Private practice /self-employed	2	9
Private practice – small firms	2	3
Private practice – medium and large firms	3	5
Total	17	29

23 The recruitment of lawyers in private practice, especially in large firms was particularly difficult, which is symptomatic of the strong time pressure induced by the constraints in terms of billable hours, which makes them less available for nonprofit activities. In addition, without saying that only men who advocate for a better work-family balance responded to the call, analyzing their career path shows that indeed, most of them developed a reflective view on this issue. Some of them stand out from the more traditional models of behavior among male lawyers.

- 24 The interviews were based on open questions and took place between January and May 2011. According to Daunay (1992, p. 276), "at times, each interview can be very structured to obtain very specific information and at others, it can be completely non-directive to explore emotions, values, etc." It is this approach that we adopted, as this complements some quantitative data already collected by the Québec Bar (see Tremblay and Mascova, 2013).
- 25 Most interviews were conducted by telephone and some by Skype, in order to reach people outside of Montreal to, again, provide some diversity. Thus, out of the 46 lawyers, 31 worked in Montreal or in the metropolitan area and 15 elsewhere in the province. Almost all interviews were carried out during working hours (two respondents were interviewed at home and two respondents were on leave). The names and characteristics of some individuals have been changed to protect confidentiality.
- 26 Once data was collected, we transcribed all the interviews and conducted the analysis according to the three stages of analysis proposed by Miles and Huberman (2003) for qualitative data: reduction, condensation and presentation of data. We then conducted a thematic content analysis, without software support. We read each interview several times, each was annotated and we identified relevant citations for our themes, then did a cross-sectional analysis comparing the various interviews.

Results: professional commitment and relation to the profession

- 27 It is important to discuss first some elements related to professional commitment, as this dimension affects the time commitment and the long working hours observed in many workplaces, particularly large law firms. This allows a better understanding of how work-family articulation can be a challenge, precisely because of the time commitment required by many law firms. The interviewees present a very deep attachment to the legal profession, despite some critical views. Professional and vocational commitment is evident in the arguments that explain the choice of law as a field of study. This is not surprising when one considers that for some of the respondents, the choice of profession came quite early. Lawyers opted for law school largely for reasons related to the prestige of this profession in Western societies, and the image of the large firm came spontaneously to mind with the interviewees.

"Law, that's what I wanted to do; I originally wanted to become a Crown prosecutor. That's why I enrolled in law. And there was no question, I wanted to work in one of the large firms.

"- And why did you not eventually become a prosecutor?

"I did not like the course at the Faculty, ultimately not a very interesting course. It was perhaps also the time of the application of the main charters of rights. And the Crown pays very little and very badly so it's less attractive than a large firm, which pays very well. It's not all cases that are very interesting for prosecutors. I did not want to do small traffic offenses, things like that."
(Constance, 34, 2 children, large firm, Montreal).

- 28 It is also the legal work per se that is interesting. When lawyers talk about their profession, they mention how the intellectual dimension and the importance of intellectual challenges are important for them. The variety of work situations is a guarantee of constant updating that can be summarized by the phrase: "It's never the same." However, routine cases provide efficiency and quicker earnings, especially for those who want to make time for the family.
- 29 Even when people show some degree of dissatisfaction with the initial expectations and take a critical look at the requirements of the profession and especially its constraints regarding long hours and performance, this does not translate into the intention to leave the profession permanently. The dissatisfaction is linked to various aspects of the business, activities often invisible as daily case management, billable hours, meetings and cocktail parties to get new customer, etc. These constraints are often found in large firms and not in other organizations.
- 30 Lawyers all enjoy the prestige of the profession. This may explain the fact that some people who no longer practice have nevertheless kept their affiliation to the Bar, as they feel it gives them credibility:

"it was so difficult to become a lawyer! And it brings a lot of credibility in conversations when I talk to customers, to know that I have the title, because it's a way to differentiate myself from

other people in other firms, who are all managers, people in operations, or engineers. I have a corporate and financial profile, so I use it as a distinctive element of differentiation. "(Danielle, 42, married, 3 children, Company, Montreal).

Choice of types of practice

31 The most prestigious type of practice is usually the large firms, in everyone's view, including those who have chosen to work elsewhere. Our interviewees point out that professional commitment has to be very strong and professional ethos completely geared towards the customer and the employer. Also, there are long working hours and it is difficult to reorganize according to family needs. Because of this, many lawyers leave these large firms, recognizing that it does not allow them to balance work with other commitments, family or others because of the long hours imposed by the employer.

32 Thus, studies show that women lawyers change jobs more often in their careers than their male counterparts (Bacik, Costello and Drew, 2003). Our own research also shows that women tend to change jobs more frequently. How can we explain this greater mobility among women lawyers? It seems that this is related to the difficulties associated with large firms, their requirements in terms of working hours and billable hours.

33 The dominant model in the profession, that is the large firm model, can bring lawyers to question their relationship to the profession, as was the case for Gabrielle. She started out brilliantly, getting a job in a large prestigious law firm in Montreal. Four years later, she no longer wanted that lifestyle and rejected the values that such work required, which led her to refocus.

"I worked in private practice after the Bar, in total maybe three, four years. I was doing Mergers and Acquisitions, and was doing crazy hours ... and I realized that this lifestyle did not suit me at all. Sure it was challenging but it was not the lifestyle I wanted. Pretty crazy hours, sleeping at the office... You had to have shirts at the office to be able to change. It really was a pretty demanding pace of life. I saw people who worked there and I did not want to become like them, where you emphasize the prestige attached to the work, the importance of the individual is really attached to work, or the number of hours that one does, the fact that we came in the office at 6 am and got out at 8 in the evening. So after that, I decided to do an MBA. "(Gabrielle, 40, married, 2 children, Company, Montreal)

34 For many, this initial experience, even if it brings a lot professionally, leads to question the relationship to work and its centrality in life, but also the relation between the professional and personal sphere. It is mostly women who are sensitive to the effect of these requirements in terms of billable hours, the "face time" with clients, and having to work on weekends.

"I had a very painful internship in private practice, which left a very bitter taste. I did it out of necessity, but afterwards when I dared leave, I jumped with both feet and I do not regret it. The internship changed my vision of it all. I did not like the context of billable hours, precise objectives, customers who challenge you because they think it costs too much, having to justify the value of your professional services, and also the reality that we had to charge so many billable hours, it was the stress with which I was not able to live. I wanted my weekends, my holidays, I wanted to live, and I did not want to apologize for having to take time. " (France, 41 years old, divorced, 2 children, government agency, Montreal).

35 The confrontation with the work requirements is an experience that often changes the initial representations. Within the legal profession, the same initial training can lead to very diverse situations (see Bar / Cirano, 2009). The nature of the professional practice and the working conditions depend to a large extent on the type of firm and its organizational framework. For example, positions in companies, even if they are not a "classic" position are often attractive in terms of regular working hours, as well as opportunities for promotions. While this may be seen as less prestigious than large law firms, it does not necessarily translate into lower levels of pay. However, being self-employed in private practice can be a difficult status, especially with respect to income security.

36 The choice of a type of practice is not made solely on the basis of professional aspirations, the relation to the profession and the professional commitment. In many cases, the choice is also based on compatibility with a future family project. The case of Christine illustrates this situation. When she finished the Bar School, she opted directly for a job in corporate

litigation in order to have better conditions for maternity leave, especially since at that time, the maternity leave for self-employed did not exist:

"I voluntarily chose to be employed in a firm when I had my children because having children as self-employed at the time when I got them, it was ten years ago, there was no leave...the conditions are not the same today, because there are leaves for self-employed. At the time, to be able to have a paid leave, you had to be employed in a firm. So I preferred this, to have my children." (Christine, 45, children 11 and 9 years, Montreal)

37 Women seem to be more affected by this issue, especially those who had their first child before the end of the Bar School and those who had planned their pregnancy shortly after they entered the workforce. This phenomenon is observed to a lesser degree for some male lawyers who chose to facilitate their spouse's career (as a lawyer or doctor).

"After my internship, I could not find a job. I had no income, and I had an economic pressure to find a job. My wife was a student at that time, she was doing her Masters... One day, I found a job in labor relations in a hospital. It kind of reconciled my two fields of study. I worked there a year and then my wife was offered a job in the federal government and I decided to follow her. Then, I found another job in labor relations in the hospital sector." (Julien, 36, married, 2 children, public sector, Montreal)

38 Our interviews show that those who stay in the large firms adhere very strongly to the dominant "professional ethos", and they often have to rely on a family arrangement which will make it possible for them to cope with the firm's demands (this arrangement is generally based on the spouse). The careers of men and women in large firms confirm this. For both men and women working in large firms, it is often the spouse who had to adapt – and often reduce – her or his professional aspirations. This initial choice may change over the years, as a result of events and family events.

39 In order to better understand this phenomenon we analyzed the mobility of lawyers from different backgrounds and types of practice to observe the constraints and factors that influence these changes. Women move more frequently to try to gain a better balance between work and family, and get away from the excessive hours. They try to find an optimal solution that takes into account both their professional and family aspirations. We observed the passage from employee to self-employed status, the creation of one's own small firm, in order to gain greater flexibility in terms of working hours.

40 For some, mobility responds to the need to adapt to new events in their personal life, such as moves to accompany their spouse, or to be closer to family (often in order to get help from family members for childcare). Others seek to improve their quality of life by reducing travel time or opting for an organization that provides more opportunities for work-family balance.

41 The case of Marianne illustrates this type of situation. Member of the Bar for 13 years, she is self-employed, with her office at home. Having started in a nominal partnership with four other lawyers, she has always known this form of employment, with the exception of two years, at the birth of her first child, when she worked as an employee. Pregnant with her second child, she received discriminatory remarks from her employer, which led her to return to self-employment and work alone. For her, the biggest advantage of self-employment is to be present at home and be able to organize professional and family time as she wants.

"No, it's not that hard, it can be done, it's a lot of benefits. We are at home, thereby reconciling the roles really well ... There are days when it is difficult. But all in all, I love the situation I have now. I love this system that allows me to breathe." (Marianne, 41, married, 3 children ages 8, 6, and 20 months; self-employed at home)

42 Most lawyers mention billable hours imposed in large firms as something which made them reject that work, and this is particularly the case for women, because maternity makes it difficult to achieve these goals, especially when they are losing clients to colleagues after a birth, as clients are often not returned after their maternity leave. If more lawyers are afforded some flexibility in working hours, the obligation to do a certain number of billable hours and be present often in the office makes work and family commitments sometimes difficult to reconcile. We also found this in small private firms, but the situation was less dramatic.

"In fact, I can go whenever I want, I can leave when I want, but the partners still expect us to be there from 9 am to 5 pm..." (Laura, 33, couple, one child, small office, Montreal)

43 In any case, important levels of billable hours are expected in most large firms and this can have an important impact on performance evaluation at the end of the year. Some find this is an important constraint, that results in long hours and induces real fatigue and potential health problems.

"I never get enough sleep. It's too short, I know, because I'm tired every morning. I never wake up in good shape. And weekends too, I have to get up because the kids have to go swimming. "(Danny, 42, married, 3 children, Large company, Montreal)

44 Having to juggle work and family responsibilities can make the mental and physical burden unbearable. We have testimonies of many people who say they are "dead" after work and find work-family balance impossible. There is also guilt, when people don't feel they can manage a good performance at work nor in the family. This is what Frances mentions, even if she thinks her current job makes it possible to manage both spheres in an optimal way.

"Right now, my biggest constraint is to be available for my employer and be available for my children. Finding a balance between the two. But there comes a point where you feel guilty. You feel guilty in front of the employer because you have to get the children, but also in front of the children, because I often have to say "mom can't, Mom has to go to work, she cannot do this or that. " You always feel guilty, you must learn to live with it, but I try to do my best to balance the two. And be with my partner ... I think my present job I makes it possible. " (Frances, 41 years old, divorced, 2 children, BPS, Montreal).

45 When asked about the specifics of their time organization, several lawyers have pointed out that having children has changed the way they organize and manage the work load on a daily basis. For some, this has meant a shift to a different mode of practice (small office, self-employment). Others opt instead for a strategy of increased working hours and reducing breaks and lunchtime discussions with colleagues in order to reduce the time spent at the office.

"Before, I could stay in the office until 8 in the evening easily. I could work weekends. Now, it is really different. At 6 pm, I have to leave the office, and I only get to work at 9 am because I drive my son to daycare. I used to be there earlier. "(Fabienne, 38, married, 1 child, large office, Montreal)

Self-employment: what benefits for work-family balance?

46 As mentioned above, the transition to self-employment status interested us specifically because this is often put forward as a solution to time conflicts. Yet when we see that the self-employed present the highest number of hours of work in the profession, the choice of this status in order to ensure a better work-life balance may be surprising; we decided to look into this in more detail. Actually, there may be a strong polarization of hours depending on the workplace, which seems to be confirmed by our interviews. So what are the reasons for some lawyers to leave the status of employee, a status that can also provide more protections regarding benefits and parental leave in particular, and eventually lead to the status of partner in the firm ?

47 In our study, we met lots of women who worked as self-employed (9), but only two men were self-employed and two others were simultaneously self-employed and salaried employees. Both were full-time self-employed who had chosen this status upon entry into the workforce because they regarded it as the best suited to their field (criminal and forensic law).

48 Out of nine self-employed women, seven made this choice in order to balance work and private life. The Canadian survey on self-employment reveals differences between men and women, with 13% of self-employed (without employees) giving work-family balance as the main reason they chose this status, while for men, this motivation is practically absent. Another survey shows that the ability to have a more flexible work schedule was the main reason given by 63% of women and 51% of men who chose self-employment (Tremblay *et al.*, 2006).

49 For some of some lawyers who abandoned the status of employee, it was too difficult to balance work and family in such a context and they chose to regain the freedom to manage their time and be released from long hours and time constraints imposed by an employer, as evidenced by the case of Anne-Marie.

"I practiced as an employee from 2008 to 2010, almost two years, and then I went on my own."

-Why did you decide to be your own boss?

"To have flexible hours. With children, when you work in the legal field, employers have difficulty understanding this, as it is a very conventional work environment. Taking parental leave, this is frowned upon. We must do long hours. It is mainly to balance work and family that I became self-employed I." (Anne-Marie, 33, married, 2 children, self-employed, region).

50 Christine has had several job changes during her career. She started in a department of business litigation and then turned to a governmental agency in order to reduce her hours of work. Then, observing that travel time did not allow her to take advantage of a reduction in working time, she decided to become self-employed and work near her home.

"The choiceto moveto self-employedwasmotivated by the objective of reducing my total working hours, including travel time; I was no longer willing todo tenhours a week togo into downtown.Ten hours in traffic ... "(Christine, 45, married, 2 children, governmental agency, Montreal)

51 This form of employment can become a real alternative to the constraints associated with atypical hours or lack of availability of spouse. Many see self-employment as a solution to modulate their working hours and be able to choose the moments to work (for example, by doing some of the work after children have gone to bed). The flexibility associated with this type of practice is seen as an asset for parents. Paradoxically, this flexibility is not often present in law firms, so that's part of the elements regularly put forward as the main advantage of self-employment.

52 As for Marianne, who began her career as an associate in a law firm, the move to self-employment was due to the fact that she did not want to face the negative attitudes of colleagues because of her maternity leaves. This is how she explains her transition to a small law firm. However, in her second pregnancy, the small firm told her that maternity leave was not profitable for the organization and she had to move to self-employment.

"From the beginningI created myown job.I was with other lawyers, we were all partners. Initially, we were four. Then, two of them left. I saw an firm that was looking for a lawyer, so I left because I thought it was better to be an employee as I wanted to have children. I thought, if I am alone, then I my colleagues will have difficulties if I am absent, so I went to the other firm. I was there for two and a half years and I went to near disaster because when I was pregnant with my second, my boss told me "Listen, it's not profitable, you'll leave again for a long period, the others will have to do your cases, "I listened to him, I closed the door to my office and I started making calls and a week after I moved to work at home. "(Marianne, 41, married, 3 children, self-employed, region).

53 However, the will to be master of one's schedule and organization of work is quickly exposed to professional constraints, especially in the face of economic pressure. For self-employed, it is not so easy to build one's client base and maintain it. Many women mention that the early years are the most difficult and the hours worked often far exceed those they could do before, as an employee. However, the objective of succeeding on one's own and a certain sense of freedom explains that many seek to meet this challenge.

"I know mylimits, butI wanted to continuemy career.We invest so much time to build this career, but I also wanted to spend time with my kids. So I arranged my own schedule, but it was not always easy; from the outside it looks nice and easy, but I had to work some evenings and nights for my clients, while people were sleeping. I also had get up at night because my kids were sick, and the next day I had to work. "(Pauline, 40, married, 2 children, self-employed, Montreal).

54 Anne-Marie's experience is interesting in this regard, because if in the first year she accepted a large number of cases, she gradually realized that she was not satisfied in terms of reconciling work and family and decided to reduce her workload, even if this was to result in a decrease in revenue.

"Mywork schedule. I try to respect it.It's not always easy the first year when we start out as self-employed (laughs). We want to accept all cases, we think that we might not have clients in the future, so we take all clients and cases, so I took a lot, but I became aware that I have always had work, so why would I no longer have clients? So I refuse many cases now. Last year, when I started, I accepted almost any kind of case, administrative, criminal, anything, but at one point I could not manage it all and I was stressed. I was not often at home either, so I really redefined what

I wanted. By becoming self-employed, I wanted to have better schedules, even if I earned less; it is not that which is important. "(Anne-Marie, 33, married, 2 children, self-employed, region).

55 This adaptation to a new mode of practice, in most cases, is not possible without strong support from family members, mobilized around the professional project. Moreover, for some lawyers, working as self-employed is seen as a short term strategy, while the children are young. We came across two profiles. For some, self-employment is their ideal way of life, as it gives more autonomy and is more entrepreneurial. For others, on the contrary, they would like to leave this situation "once the children are older." This is more characteristic of women who find the constraints of managing an office quite heavy.

56 We therefore find a mixed picture regarding the nature of the tasks and the conditions of work, and this is due to the diversity of organizational and institutional contexts in which lawyers work. While the standards that govern the advancement and career development are not identical in the different types of organizations, large law firms are the most valued by all, even though many reject them because of the excessive working hours and professional commitment.

57 Our analysis of the interviews shows a clear difference between employees in law firms in private practice (regardless of size) and employees working in other types of organizations, subject to other institutional logics. Indeed, one key difference is the obligation to do a certain number of billable hours and ensure business volume, elements which are important in large firms, and have a huge impact on the time available for family and personal life.

58 Thus, women are systematically under-represented as partners in large law firms and, conversely, over-represented among self-employed or in small firms. A Canadian study based on a sample of Toronto lawyers in 1985, and another conducted throughout the province with a sample of lawyers admitted to the Bar between 1975 and 1990, show that women were less represented among the partners in the two samples (Kay and Hagan, 1995). Among lawyers in Toronto, the probability of becoming a partner was 47% for men and 36% for women (Kay and Hagan, 1995). Our interviews in Quebec in 2011 suggests that things have not changed so as to allow more women (and men who wish to invest in parenting) to become partners while having a family life. There are a few exceptions that show some change in attitudes, but they are still a minority.

59 It is however interesting to see that changes are also observed with the men. For example, Robert, a very involved father who took parental leave for each birth (six months leave for the first, no "official" leave for his second child, because he was unemployed, and two months for the third):

"I take the role of father very seriously. I think it is very important in children's lives. What is most important in my life is my children, even more than my marriage. It's not that the couple is not important, but for us, the children come first. And I said that to my employer: if I have to go get my child at school because he is ill and you ask me to meet with a minister because he needs to see me, it is my child that I will choose." (Robert, married, 3 children, unionized job in the public sector, Montreal)

60 The case of Karen is also atypical. Her husband, who is a part-time lecturer is less engaged professionally, which leaves him time to manage family needs while Karen is highly involved in a job that gives her very little time for family during the week. She recognizes that she assumes the role of mother mainly during the weekends, which she tries to reserve for the family. Karen's husband does all the housework, including planning activities. Thus, Karen somehow assumes the identity of the family breadwinner. She justifies this choice by the particular needs of their disabled child. She admits that her professional investment would not have been possible without the sacrifice of her husband, who gave up his career ambitions.

"I would not have done what I did if I did not have my spouse who is much more available. We talk a lot about work-life balance, but for me, it's a couple's decision and a team decision. I could not have this career if my spouse had not accepted to put the brakes on his own career and his own career development. I could not have done it." (Karine, 38, married, 4 children, large firm, Montreal).

Conclusion

- 61 Our results show that the majority of lawyers are very engaged in their work. They all have a generally positive vision of the profession, even if they express some criticism concerning working time requirements, mostly in large firms. Many have chosen from the beginning to work in the public sector or as self-employed, others came to it later, because this seems easier to reconcile with family life. As we have seen, the confrontation with the work requirements can change the initial representations of the profession. In the end, choices are made taking into account the various constraints of different types of practice. Thus, contrary to what was noted by Kay (2002), we observed that few women want to leave the profession, but they will change their type of practice, moving from a private law firm, to litigation in a company or more often to self-employment, even if this also means constraints and sometimes long hours at the beginning.
- 62 Indeed, the family project plays an important role in choosing the type of practice and the workplace. Of course, we do not have here a representative sample and we did not have access to women who have left the profession. Some people opt for corporate litigation in the public sector or for self-employment in order to better reconcile work and family. This does not only apply to women, but they are still more likely to make such a choice. The men who made this choice more often did so to facilitate their spouse's career, when it was an important career such as a lawyer or doctor.
- 63 We therefore conclude that there is a form of screening effect, which leads large law firms to attract mainly those who adhere perfectly to the dominant professional ethos, which involves long hours and a significant commitment to clients, even answering their phone calls outside working hours, sometimes during holidays. The temporal regime of the profession thus poses significant challenges for lawyers, especially female lawyers. Here we can see the effect of the professional ethos as well as the refusal by some of this professional ethos, which is based on long hours, billable hours, and a professional overinvestment that is difficult to reconcile with family life, which actually translates into family underinvestment (this being mainly the case for men). On the contrary, those who do not adhere to this professional ethos move away from large law firms and go instead to self-employment or small firms.
- 64 So there is much conflict between, on the one hand, professional commitment and working hours formally or informally imposed in large law firms and, on the other hand, the desire to have a family life. This acts as a repulsive factor for women who want a family life, but also more and more for young men who want to engage in their role as fathers without necessarily sacrificing their career (Tremblay and Dodeler, 2015), including taking paternity leave (Tremblay, 2013). These lawyers will abandon the large law firm, considered as the most prestigious career. The classic professional ethos seems difficult to reconcile with family life and thus seems to be changing slightly the vision of young lawyers, male and female, who want to have a family.
- 65 Reconciling parenthood and professional commitment as a lawyer seems difficult and leads women to be mobile in an attempt to find a compromise. A number of movements were observed, and the transition to self-employment is often seen as an optimal solution to be able to control one's working hours and schedules. In fact, seven of the nine women who had chosen this status had done so to reconcile professional and family life. However, we observed that this desire to master one's schedule is quickly confronted with the professional constraints (trial dates or time constraints of clients, for example), but even more to economic pressures (to build one's client base, pay the office bills, etc.). Given these constraints, lawyers recognize that they often have to work more hours than expected at first, but they hope to be free to determine their schedules and their total hours of work over time.
- 66 Thus, if mobility and self-employment are considered, even tested as solutions by various lawyers who are also parents, this is not always the ideal solution, at least in the short term. Indeed, mobility is difficult when there is a change in parental situation. Also, the beginning of a career as self-employed often requires a significant time commitment before one has enough contracts to pick and choose one's clients and schedules.

- 67 In terms of the ethos of the profession, we found that it seems to require a strong professional commitment, which usually results in a high number of working hours, especially in large offices, but can sometimes be reduced in a different type of structure. There is thus an emergence of new temporal regimes, with reduced working hours or less billable hours, but this is not the dominant model. Indeed, many self-employed reported working evenings or during the night, which also shows the importance of customer service and professional commitment, including outside of large law firms. The professional ethos seems to rest heavily on full-time practice and the obligation to respond to client's requests, even if it invades family or personal life. This is why gender is such an issue here, as it is more difficult for women to ensure this overinvestment in work, while it is much easier for men who generally under-invest in the family. The professional ethos is thus clearly intertwined with gendered schemes as it impacts on professional choices and mobility.
- 68 Our research has some limitations, since it is based on 46 interviews, but it shows that there are still challenges to reconcile the legal career and family life. Despite the major changes in society in terms of gender equality and the importance attached to issues of work-life balance, our results show that not all workplaces have adapted to this challenge. Even today, large law firms often have a repulsive effect for lawyers, especially those who want to have a family life in addition to their professional lives.
- 69 Given the high and increasing percentage of women in the profession (over 60% of law students are women, and over 60 % of those under 10 years of experience as well), one might expect that large law firms would question their practices if they want to employ the best lawyers. Indeed, if law firms want to attract and retain the best talents, male and especially female, they will need to review their working conditions and particularly working hours, in order to make it possible to combine family with a career as a lawyer (Stone, 2007). However, for the moment, it seems to be mostly individuals, men and especially women, who are adapting themselves and the permeability of working time and family time remains a challenge for many.

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Résumés

Les études font état d'une difficulté à monter au sommet dans les organisations, et parfois même à simplement demeurer dans les grands bureaux d'avocats, en raison d'un conflit entre la vie professionnelle et la vie familiale qui peut devenir un motif d'abandon de la profession. Comme la féminisation de la profession d'avocat progresse, nous avons voulu déterminer s'il est possible de concilier l'engagement professionnel temporel requis des

avocats, principalement dans les grands bureaux, avec les exigences temporelles d'une vie familiale. Nous avons interviewé plus d'une quarantaine d'hommes (17) et de femmes (29) qui exercent cette profession dans divers milieux. Notre recherche montre qu'il existe encore des défis associés au régime temporel du travail des avocats; il est difficile de concilier la carrière d'avocat et la vie familiale et il y a souvent débordement du travail sur la vie familiale et personnelle. Malgré les évolutions sociétales sur le plan de l'égalité hommes-femmes et l'importance accordée aux enjeux de conciliation emploi-famille, les grands bureaux d'avocats exercent souvent, encore aujourd'hui, un effet repoussoir pour les avocats, surtout les avocates, qui souhaitent conjuguer vie familiale et vie professionnelle. Certaines femmes se tournent vers le travail autonome, mais ce n'est pas toujours une solution idéale. Étant donné la forte féminisation de la profession (plus de 60 % des étudiants en droit étant des femmes), les grands bureaux devraient sans doute se questionner sur leurs pratiques s'ils souhaitent attirer les meilleurs talents, masculins et féminins, car pour le moment, il semble que ce soient surtout les individus, hommes et femmes, qui s'adaptent, et un bon nombre quittent tout simplement.

Studies indicate that women lawyers often have difficulty in gaining access to the top of law firms, and sometimes simply to remain in large law firms, due to a conflict between work and family life, a challenge related to temporal regimes of the profession, which can lead to abandon the profession. As the feminization of the legal profession progresses, we wanted to determine if it is possible to reconcile the time commitment required of professional lawyers, mostly in large offices, with the time demands of family life. We interviewed 17 men and 29 women for a total of 46 lawyers, in various settings. Our research shows that there are still challenges to reconcile a legal career and family life, and that this results in a high permeability of social time, and even a spillover of work into private and family life. Despite changes in society in terms of gender equality and the importance given to issues of work-life balance, major law firms often have, even today, a negative effect for lawyers, especially lawyers who wish to combine family and work life. Some women turn to self-employment, but it is not always an ideal solution. Given the strong and growing percentage of women in the profession (more than 60% of law students are women), large offices should probably be review their practices if they want to attract the best talent, male and female, because at the moment it seems to be mostly individual men and women who adapt themselves, and many actually leave the firm.

Entrées d'index

Mots-clés : temporalités, conciliation travail famille, temps sociaux, régime temporel, avocats

Keywords : temporalities, work-family balance, social times, temporal regimes, lawyers