

1996

Moving Mountains: A Comment on the Glass Ceilings and Open Doors Report

Judith S. Kaye

Follow this and additional works at: <https://ir.lawnet.fordham.edu/flr>



Part of the [Law Commons](#)

Recommended Citation

Judith S. Kaye, *Moving Mountains: A Comment on the Glass Ceilings and Open Doors Report*, 65 Fordham L. Rev. 573 (1996).

Available at: <https://ir.lawnet.fordham.edu/flr/vol65/iss2/4>

This Article is brought to you for free and open access by FLASH: The Fordham Law Archive of Scholarship and History. It has been accepted for inclusion in Fordham Law Review by an authorized editor of FLASH: The Fordham Law Archive of Scholarship and History. For more information, please contact tmelnick@law.fordham.edu.

Moving Mountains: A Comment on the Glass Ceilings and Open Doors Report

Cover Page Footnote

Chief Judge of the State of New York. Customarily I express thanks to those who helped prepare an article for publication—and I do want to thank my superb counsel Susan Knipps, but for a contribution of a different sort. Ms. Knipps' legal career, like mine, has been both in a large firm and in the public sector, but her views on women's progress are far more optimistic than mine. In other words, we disagree. She proves, as does Professor Epstein's report, that women are not monolithic, that we can temper and broaden each other's perspectives and that we can work well together in advancing our common goal.

MOVING MOUNTAINS: A COMMENT ON THE *GLASS CEILINGS AND OPEN DOORS* REPORT

Judith S. Kaye*

INVARIABLY it is useful to have several perspectives on a problem. Cynthia Fuchs Epstein has presented an authoritative, well-documented report (the "report") on the advancement of women lawyers in large corporate firms, based on in-depth interviews of 174 partners, associates, and alumni of eight firms, statistical and qualitative analysis of additional data, and study of the relevant literature.¹ My comments, by contrast, are purely personal.

I do, however, feel comfortable offering my views on both the problem and the report. I spent the better part of my lawyer-life as a litigation associate and then partner in medium-to-large corporate law firms not unlike those studied; my husband remains in one; my daughter (herself a mother) left one after a brief stint to join the Kings County District Attorney; my law clerks and friends have gone in and out of them. I care deeply about the subject of women's advancement in the profession. And I agree with Yogi Berra's assessment that "you can observe a lot by watching."

And reading, too. I am grateful to everyone who had a hand in this report—those who envisioned and enabled it, those who participated in and prepared it, and those who will carry forward the discussion. Unquestionably, this is a defining document that will provoke much needed attention to this area.

Some may question why we need to monitor women's progress at the large firms. Of all the women lawyers who have faced discrimination, this highly credentialed, highly compensated group would seem to be least in need of anyone's attention or concern. And focus on other areas of the profession—such as the public sector—might produce a rosier picture.

This attention is appropriate and necessary because of the unique role these firms play in the profession. Their six-digit associate salaries and double-digit billing days set standards for us all. The firms,

* Chief Judge of the State of New York. Customarily I express thanks to those who helped prepare an article for publication—and I do want to thank my superb counsel Susan Knipps, but for a contribution of a different sort. Ms. Knipps' legal career, like mine, has been both in a large firm and in the public sector, but her views on women's progress are far more optimistic than mine. In other words, we disagree. She proves, as does Professor Epstein's report, that women are not monolithic, that we can temper and broaden each other's perspectives and that we can work well together in advancing our common goal.

1. Cynthia Fuchs Epstein et al., *Glass Ceilings and Open Doors: Women's Advancement in the Legal Profession*, 64 *Fordham L. Rev.* 291 (1995).

moreover, train many lawyers who will go on to leadership roles throughout the profession, further enhancing their influence and mystique. When glass shatters in these corridors, therefore, the sound really travels.

That enormous change has occurred at the large firms, even in my own years as a lawyer, cannot be denied. Back in 1962, the burning issue was not whether a woman could become a partner at a large corporate law firm. My classmates' canned interview questions concerning partner-to-associate ratios and attrition rates were, for me, ridiculous. My goal was far more modest, like getting a pump-clad foot in the door for an interview. "Our quota of women is filled" was not an uncommon response. And until Sullivan & Cromwell came along, the only firm offer I had was at a lower salary than that offered to men in my class. Today, as the report confirms, women are hired in substantial numbers at major law firms, receive equal pay, and practice in all areas.

Of course, we didn't need another report to document these developments—we've known them for some time. Indeed, nearly seventeen years ago, then-fledgling *New York Law Journal* reporter (now Editor-in-Chief) Ruth Hochberger reported the marked increase of women entering the profession, and noted that "It is no longer unusual for a law school's student body to include large numbers of women, even more than half the total at some."²

But we *did* need this report to substantiate another, perhaps more remarkable phenomenon. To me it is incredible that while the entry barriers are down and the numbers are up, still women are encountering many of the very same obstacles that were there decades ago. Much of the discussion in the report thus has a depressingly familiar ring.

For example, when interviewed almost two decades ago by Ms. Hochberger for the "Women Lawyers" piece quoted above, I said that "the next step" was to see whether women could attract their own clients and new business to a law firm.³ Dr. Epstein's report confirms that seventeen years later, we are still apparently poised at this same step. And we know from the report how especially important rain-making is today. A period of two decades is a mighty long dry spell.

Another depressingly familiar impediment to the advancement of women in these firms has been the expectation that they would have children and leave. Now apparently the expectation has broadened out a bit. The expectation is that women will have children and either leave or stay; in either event, perceptions about mothering continue to

2. Ruth Hochberger & A. A. Reidy, *Women Lawyers: View from the Top*, N.Y. L.J., Mar. 24, 1980, at 1.

3. *Id.*

be a big negative. It saddens and disappoints me that we have made so little progress toward resolving this core cultural issue.

The simple answer is, of course, that cultural change takes time. An experience at the Chief Judges' Conference this past summer, however, convinced me that we have to look beyond the simple answer.

At an educational program at the Conference on the Technology Revolution, the opening speaker reeled off heady statistics about how rapidly technology is changing the world today. He gave as examples that every thirty minutes a private network is added to the Internet, and every hour credible vendors announce two to three new products. As he said, "We are all adapting to this new environment." (How well I know! I soon will have a PC installed at the desk of Benjamin Nathan Cardozo, which I have the good fortune to occupy in Albany.) The speaker concluded by showing us what appeared to be a pocket telephone, but was in fact a full-service computer with voice recognition, e-mail connecting him to home and office, and the ability to talk back.

As I glanced around the room, I thought about another revolution, which is proceeding at a markedly different pace. Of some fifty-five Chief Justices, about seven are women. Though some might herald this as an astounding breakthrough, the sad truth is that women are not doing nearly as well as PCs, faxes, and cellular phones.

We all know that the Technology Revolution is more than the random, natural effect of years of scientific progress. It is the product of intensive, purposeful, and well-financed attention to the issues at hand. It shows that, with the right support, a culture *is* capable of lightning-fast change.

There are those who would compare women's advancement in the profession to the erosion of a mountain—a process that will proceed slowly and inevitably once entry barriers fall. But there is in fact no physical inevitability to our ascent. It still requires vigilance—conspicuous, vocal vigilance. I sometimes fear that is forgotten today.

The barriers to entry thirty years ago were obvious inequities that provided a clear target for our efforts. Dr. Epstein's impressive report now brings the more subtle obstacles into sharper focus, providing a platform from which further efforts can proceed. Many issues identified will require action on several fronts, including the home front, where more equal sharing of child care tasks may ease some of the pressures women face individually and collectively.

In my thirty-plus years in the law, I have seen the mountain shift, then settle. It's time to get it moving again.

