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Despite the implementation of policies and procedures to redress the gender imbalance at the higher echelons in Australian corporate law firms, only a paucity of women successfully tread the path to equity partnership. In this article, it is argued that it is the systemic, rather than the overt, barriers that present the major obstacle to sexual equality within the corporate legal workplace. Neo-Marxian thought, in particular the work of Charles Derber on the proletarianisation of professional workers, as well as contemporary feminist thought, is utilised to explore why profoundly gendered assumptions in relation to the ‘ideal worker’ norm remain deeply embedded in the mindsets and attitudes of those organising the legal workplace. It is suggested that fear of change to work practices within firms has not only an ideological but also a material base. It is economically determined. Highly trained women lawyers with family work responsibilities who take up flexible work arrangements in firms are fulfilling a proletarian role and their under-utilised labour is being extracted to increase profit share at the apex and facilitate the progress of their unencumbered colleagues along the path to partnership.

For some time now, there has been incontrovertible empirical evidence produced in a plethora of studies across common law countries illustrating that women lawyers – particularly those with family work responsibilities – have not been accepted as full and equal citizens of the community of professional legal practitioners.¹ Notwithstanding some genuine intent in major law firms to begin to redress the gender imbalance at the higher echelons within, the policies and procedures being implemented in Australian corporate law firms to improve the status of women lawyers are not working. As argued elsewhere,² in many jurisdictions since the early 2000s, in acknowledgement of the difficulties that most women face balancing the double day required as full-time workers and full-time

¹ Hagan and Kaye (1995); Pierce (1995); Thornton (1996); Sommerlad and Sanderson (1998); Brockman (2001); Rhode (2001); Schultz and Shaw (2003); Williams and Thomas Calvert (2004); Mossman (2006).

mothers, women’s lawyers groups have sought more flexible working arrangements for women. However, the resulting equal opportunity policies and flexible work practices that have been implemented by firms in order to assist practitioners with family-work responsibilities have failed to plaster over the fissure between the trajectories of advancement for men and women lawyers. Indeed, paradoxically, these practices work as overt or indirect barriers to the career advancement of those who utilise them.

Despite manifold attempts by women lawyers to promote change, work practices in major legal practice remain highly structured and geared to the clock under a formidable regime of long working hours. In Australia, a number of reports have provided snapshots and analysis of issues faced by women in legal practice across particular Australian states. A seminal report into flexible work practices in legal practice was the joint project conducted by the Law Institute of Victoria (LIV) and the Victorian Women Lawyers (VWL), reported on in 2006. That report identified the need to change what actually happens in law firms in order to develop optimism by way of making the benefits of family-friendly work practices and entrenched flexible work arrangements clear to all. The benefits identified included cost savings in retention and staff loyalty (increasing productivity and lowering recruitment costs), attracting the best-quality candidates and obtaining a superior reputation in the employer of choice stakes, both within the profession and with clients. The report called for the promotion of the necessary attitudinal change, building on the LIV’s influence with the stakeholders, by first sifting through the available resources, kits and guides on developing and implementing policies and guidelines on flexible work arrangements and on how to embed cultural change within organisations, and then adapting them to the legal profession. Once a willingness to accept that change happens and behavioural change occurs, the report advocates that a social marketing emphasis be adopted to encourage and maintain the gains.

The ‘push and pull’ characteristics of the tenets of such a campaign adopt a similar strategic course to that identified in reports from other common law jurisdictions such as the American Bar Association’s Balanced Lives: Changing the Culture of Legal Practice report. They are practical and broad-ranging strategies for workers with family-work responsibilities (WFWRs) to better ‘fit in’ to major legal practice from the perspective of the power wielders who design the legal workplace. The suggestions in the report include: tackling

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7 Rhode (2001). The report was prepared for the American Bar Association Commission on Women in the Profession 2001. See in particular the identification of best practices that can assist employees in structuring their careers, p 25.
practical barriers that exist (such as childcare, equipment, etc.); commandeering opinion leaders and building key stakeholder relationships – champions of the ‘cause’ who can model preferred behaviour; peer education programs encouraging those who have adopted the preferred behaviour to educate others (by advising/mentoring/supporting through networks, etc.); and monitoring of key data (e.g. pay parity, numbers of people being promoted) that act as indicators of the changes over time, and adjustment to methods in place to compensate where required and adjust to new developments. Indeed, for some understandable reasons, the VWL’s 2010 report is pitched directly at law firm management. It specifically offers practical tools such as a ‘Flexible Work Proposal/Business Case’ and an ‘Individual Flexible Work Plan’ for utilisation by partners to assess the viability and practicality of implementing flexible work arrangements in their firms.

But will the elimination of overt barriers change the status quo and lead to equality of participation for women lawyers, particularly WFWRs working in the major law firms? It is argued here that it will not. Rather, it is suggested that preparing reports epistemologically grounded in market liberalism’s values and assumptions, can only produce changes that tinker at the edges of the social relations affecting the legal workplace. Indeed, however well intentioned, entering into the ideological fray that is the theoretical heartland of those who dictate the terms of legal practice has only served to elide the perspective of WFWRs and the complexity of the real material relations that exist in major law firms. It continues to be the case that when WFWRs bring their hide to the legal services market (expressed in terms in which the major players live their lives), they ‘have nothing to expect but a hiding’. Thus neo-Marxian thought is employed in this article as a critical theoretical tool to disinter the philosophical and epistemological underpinnings of the systemic barriers to women lawyers in corporate legal practice in Australia.

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10 The current dominant discourse explaining the material and social relations that order the world goes under many guises. For example, Richard Sennett refers to this era as flexible capitalism in Sennett (1998), p 9. For Pierre Bourdieu, it is neo-liberalism, which is a discourse grounded in a utopian theory of a pure and perfect market that has been made possible by the politics of financial deregulation. The transformative effects of neo-liberalism are achieved by measures such as calling into question any and all collective structures that serve as an obstacle to the logic of the market in order to protect foreign corporations and their investments from nation-states. See Bourdieu (1998).
11 I refer in particular to market liberalism’s fundamental assumptions that are corrosive of the life-worlds of family and community, such as the assumption that unrestrained self-interest and limitless material acquisition are good things if they prop up the market and the notion that human labour is no different to any other commodity. See Rudd (2006).
13 Here I have appropriated Marx. See Marx (1962), p 165.
Methodology

This article is based on 50 interviews conducted in 2005 and 2006 with corporate lawyers working in ten of the major corporate and commercial law firms: five top-tier firms (by revenue) and five mid-tier firms operating in Melbourne, with national and/or international affiliations and offices. The qualitative research consisted of 50 semi-structured, in-depth interviews with partners, employed practitioners and also practitioners who had chosen to leave the employ of the ten firms selected. The participants were asked about their experiences and perceptions of work practices and the workplace culture within the firms in which they were working, and in the legal profession in general. The interviews were taped and were generally in the vicinity of one hour’s duration, with several ‘time-poor’ senior associates having to restrict the interviews to approximately 40 minutes and a number of the more expansive lawyers, particularly partners, generously contributing up to two hours of their time to the research. All interviews were confidential and were conducted on the understanding that all identifying data would be removed and a copy of the transcript made available upon request. The tapes were transcribed and the data then compiled and analysed.

A small number of participants were lawyers who had been referred to the author as people who might be prepared to participate in the research by colleagues at La Trobe Law or former workplace colleagues at the Court of Appeal, Supreme Court of Victoria. In order to ensure methodological integrity, most participants were randomly selected from the websites of the selected firms and a small number of participants (solicitors) were obtained via the ‘snowballing’ effect with one interviewee recommending another. Initially, e-mails were sent to ten partners (of which some were staff partners, equity partners and junior partners), senior counsel and senior associates from each firm indicating the nature of the research being conducted and requesting their participation. Gender balance and diversity of experience across areas of practice was aimed for. Of the 50 interviews conducted, 30 partners (eighteen men and twelve women) were interviewed; six senior associates (five men and one woman) and three senior counsel (one man and two women), with the balance being employed solicitors or solicitors who had left the particular practice (one of whom was male). For reasons of confidentiality, where quotes from interviews appear in this article the interviewee is referred to only by gender and position held in the firm; Female Partner or Male Partner; Female Special Counsel or Male Special Counsel; Female Senior Associate or Male Senior Associate; and Female Solicitor or Male Solicitor; and the city and date of the interview. This article is necessarily an interpretative account of how these corporate lawyers view contemporary legal practice.

The research was undertaken for the author’s doctoral thesis on Work Practices and Culture in Major Australian Corporate Law Firms.
The Systemic Problem

The research reveals that despite the relatively recent introduction of flexible work practices and more flexible partnership arrangements within firms, it is still the case, as argued by Margaret Thornton in her landmark research into the legal profession in Australia some fifteen years ago, that ‘otherness’ for women lawyers is ‘systematically factored into the structuring of contemporary legal practice, and has also lodged deep within the recesses of the legal psyche’. In her definitive theoretical analysis of the experience of women in Australia’s legal profession, Thornton notes the continued fringe-dweller status of women in the legal profession. It is her argument that although women have been ‘let in’ to the legal profession, they are still represented as the ‘other’ against the normative benchmark, paradigmatic incarnation of legality – invariably a white, heterosexual, able-bodied, politically conservative, middle-class man. Thus, regardless of how competent and hard-working a woman in the legal profession may be, it is difficult for her to be accepted as an authoritative agent of legality because the feminine in legal culture continues to be represented as a dangerous force that is corrosive of rationality.

Thornton’s analysis appears to have stood the test of time:

We’ve still got a couple of partners who I would say are not fully comfortable with working mothers. As extraordinary as that might seem, in this day and age, there are partners who are not comfortable with that.

For Thornton, as a ‘master narrative’, the law’s (re)presentation of polarised images of men and women has become enmeshed in the social script. Positivistic legal jurisprudence and judicial discernment have tended to essentialise the ‘woman’ of legal discourse not as the equal of her male counterpart, but rather as the embodiment of outmoded stereotypes. Furthermore, the ‘master narratives’ of law have tended to depict ‘woman’ as a homogeneous category: disorderly, a product of her sexuality, subordinate in marriage and with a purported ‘vacuity of mind’. As such, ‘woman’ has come into being in law as the paradigmatic ‘other’ against whom the cerebral masculine ideal, the ‘benchmark man’ of law, has been defined.

These outmoded stereotypes would appear to prevail. Indeed, in his article examining how the interaction of law firm growth and its changing demography is reflected in the lawyer joke corpus, critical jurisprudential

18 Female Partner, interview recorded in Melbourne 30 November 2005.
scholar Professor Marc Galanter argues that sexism persists in the law firm setting, particularly in the hiring contest, where qualification is subverted by nepotism and sexual attraction.\textsuperscript{21} The joke that highlights his point is as follows:

Three young women have all been working 80-hour weeks for six straight years in the struggle to make partner in the law firm and the cut-off date is fast approaching. Each one is brainy, talented and ambitious – but there’s only room for one new partner. At a loss as to which one to pick, the senior officer finally devises a little test. One day, while all three are out to lunch, he places an envelope containing $500 on each of their desks.

The first woman returns the envelope to him immediately. The second woman invests the money in the market and returns $1,500 to him the next morning. The third woman pockets the cash.

So which one gets the promotion to partner? The one with the biggest tits!\textsuperscript{22}

What is illuminative, but not funny for those women currently labouring in Australian corporate law firms, is that in the major firms, relationships of professional equality are purportedly based on merit:

If you’re committed to merit and regardless of gender, I think that in my experience, and I go back the whole time with my period of practice of 22 years, it’s always been based on that, then those questions (are there discriminatory practices in the profession?) don’t arise.\textsuperscript{23}

Nevertheless, the progress of women lawyers on the path to partnership continues – at least in some firms – to be contingent on their ability to engage the gaze of male lawyers, as objects of sexual desire:

Q. Are you aware of discriminatory practices in the profession?
A. … There is, in some departments, a ‘boysy’ sort of feel, I guess. Quite seriously, I think there is a tendency, possibly unconscious, particularly among some more senior males who are involved in employing people and or allocating work to women – to allocate work to women who are more physically attractive.\textsuperscript{24}

In this article, it is argued that the ‘master narrative’ of law continues to ground the systemic barriers to women lawyers’ advancement to the top of corporate law firms, and it is the systemic barriers, rather than the overt or indirect ones, that present the greatest challenge to substantive equality for

\textsuperscript{21} Galanter (2006), p 1443.
\textsuperscript{22} Galanter (2006), p 1443.
\textsuperscript{23} Male Partner, interview recorded in Melbourne, 20 October 2005.
\textsuperscript{24} Male Senior Associate, interview recorded in Melbourne, 4 August 2005.
women lawyers. These barriers are the philosophical and epistemological assumptions that remain deeply embedded in the mindsets and attitudes of those organising the legal workplace, and over time they have proven to intractably defy redress. In order to better understand the gendered aspects of how corporate law firms function to affect corporate lawyers’ lives, this article undertakes a critical, theoretical exploration of those systemic barriers. Marxian\textsuperscript{25} theory on the proletarianisation of professional workers and contemporary feminist thought are utilised in order to inquire into any transformative possibilities that might have gone unseen in the hegemonic views of those who organise the workplace in the benchmark-setting major corporate law firms in Australia.

**Neo-Marxian Analysis of the Systemic Barriers to Women Lawyers in Corporate Legal Practice**

It must be said that the notion of the *proletarianisation* of corporate legal professionals does not sit easily with the marbled foyers, mirrored lifts and priceless artefacts studiously placed amidst the restrained leathered chic one encounters when entering the temples of major corporate legal practice. Nevertheless, the Marxian critique of political economy is arguably one of the most profound critical interrogations into the nature of work and the workplace that has ever been undertaken. Therefore, whether or not one has been acquainted with, or is compelled by, Marxian methodology and concepts, if they can be appropriated in order to analyse and illuminate the relations of domination that structure and limit the life-worlds of contemporary corporate lawyers, then that pursuit should prove worthwhile.

For Marx, the class struggle between the bourgeoisie and proletariat saw the constant revolutionising of the instruments of production, and therefore the relations of production.\textsuperscript{26} His bourgeoisie epoch brought about ‘uninterrupted disturbance of all social conditions, everlasting uncertainty and agitation’ because the needs of constantly expanding markets saw the bourgeoisie chase all over the surface of the globe, ‘nestling everywhere, settling everywhere and establishing connections everywhere’ in order to exploit the world market.\textsuperscript{27} Importantly for Marx, one of the profound changes that the bourgeois epoch brought to the history of mankind was the conversion of ‘the physician, the lawyer, the priest, the poet and the man of science, into its paid wage-labourers’\textsuperscript{28} so they too became *proletarianised*.

\textsuperscript{25} The term ‘Marxian’ rather than ‘Marxist’ is used in this article, taking into account Karl Marx’s declaration that ‘All I know is that I am not a Marxist’, as recalled by Friedrich Engels in a letter to Conrad Schmidt, 3 August 1890, cited in Jones (1996), p 661.

\textsuperscript{26} By ‘bourgeoisie’ is meant the class of modern capitalists who are owners of the means of social production and employers of wage-labour. By ‘proletariat’ is meant the class of modern wage-labourers who, having no means of production of their own, are reduced to selling their labour-power in order to live. See Marx (1972a), p 335.

\textsuperscript{27} Marx (1972a), p 338.

\textsuperscript{28} Marx (1972a), p 338.
It must be said that much of the intellectual ‘hard yakka’ to establish the methodological approach that grounds this project (to explore the theory of the proletarianisation of professional workers in order to better understand contemporary corporate legal practice) was undertaken by Nancy Hartsock in the mid-1980s. At that time, Marxist intellectual pursuit, together with feminist theoretical rigour and political activism, was yet to become overtly déclassé within the neo-liberal academy. Hartsock developed a foundation for an account of power and class struggle in capitalist development that moved beyond the market model as the most influential mainstream theorisation of power. She argued that an epistemological relocation of the theorisation of power, from capitalism’s vantage point in market exchange to the standpoint of the proletariat in the production process, could expose ‘the systematically inhuman relations between human beings’ by locating their source in the production process. Of particular relevance to the analysis here is the notion in Marxian scholarship that analysis of economic phenomena should begin with a consideration of the nature of work and those who perform it, rather than analysis of the complicated structures of a developed commodity economy.

Hartsock explored Marx’s theory of knowledge, in particular the epistemological relationship between Marx’s depiction of levels of circulation (appearance) in society and levels of production (essence). For Hartsock, the level of circulation is ‘the theoretical home of the bourgeois world view’. There, categories of meaning (such as freedom of contract, exchange and competition as universal features of human existence) within which the capitalist lives his life are determined. The categories of meaning within which the proletarian lives his life, however, are determined within the level of production. As such, it is practical activity itself that determines both the proletarian standpoint and the possibility for the critique of capitalism. According to Marx, the concept of praxis, or human work, defines what it is to be human, and Marx speaks of the products of human work as ‘crystallized or congealed human activity’ or as ‘conscious human activity in another form’. For Marx, human attempts to satisfy physical needs direct both processes of consciousness and material existence. Human beings are what they do, and the division of labour’s systemically divergent practical activities give rise to the growth of logically divergent world views. Thus, in Marxian capitalist society, there is a dual vision of the

29 Hartsock (1985).
30 For accounts of the demise of scholarship in the liberal university as a site of dissemination of knowledge for its own sake in the quest for the intellectual development of humanity, see Thornton (2001) and Readings (1996).
32 Hartsock adopts this position by reformulating George Lukacs’ analysis in ‘Reification and the Consciousness of the Proletariat’. See Hartsock (1985), p 118.
33 Hartsock (1985), p 117.
world: one is in the form of the ruling-class or bourgeoisie understanding, rooted at the level of circulation or exchange, while the other is held by the proletariat at the level of production. Hence, albeit mediated through the writer as conduit, this article features the narratives of practitioners working at the level of production within corporate legal practice, and voicing their inner needs and views on how their workplace impacts on their life-worlds. It is acknowledged, however, that within the Marxian intellectual grid, for the purposes of this article, there is an ambivalence in relation to the epistemological positioning of equity partners. Although many labour at the coalface and, like other partners and their practitioner colleagues, are increasingly subject to bureaucratised management regimes and pressure to assuage the needs of ever-more demanding clients, it is doubtful that the equity partners interviewed for this research would, at first instance, identify themselves as being ‘proletarian’. Nevertheless, drawing on Derber’s theory on the proletarianisation of professional workers, I have argued elsewhere that in the conditions that prevail in the mature and highly competitive neo-liberal marketplace, even those at the apex of corporate legal practice are expressing concern in relation to their professional autonomy as they find themselves working more and more at the dictates of the whim and caprice of their corporate clients.

It is evident that the changes in the nature of work that Marx identified in his bourgeois revolution can in some ways be seen to parallel those experienced in today’s globalised/neo-liberal world. Although largely viewed as evolutionary rather than revolutionary change, deregulation of economies and rapid technological changes have nevertheless brought about a ‘horrendous pace of change’, which has become a ‘trauma for a large part of the population’. As a result of that change, many workers now confront the prospect of having to perform at maximum pace for the rest of their working lives. Indeed, in the highly pressured, competitive world of corporate legal practice, the material conditions of their existence see corporate lawyers ever more pressured by management strategies to control not only the pace of their work:

Every year things get faster … much of what I do requires me to be available pretty much 24 hours a day, seven days a week. So how would you cope without the remote access to the computer system, blackberries, telephones?

but also expectations of extended working hours:}

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37 Bagust (2013).
38 Edward Luttwak in Martin and Schumann (1997), p 182.
40 Male Partner, interview recorded in Melbourne, 13 December 2005.
41 In particular, from equity partners in the major firms, some of whom partners from mid-tier firms suggest should ‘get a more realistic idea of their worth in financial terms’ (Male Partner, interview recorded in Melbourne, 13 December 2005).
We are more profitable when we have people working long hours – long chargeable hours. I don’t think the clients encourage it all, but that’s the way we bill our clients and partners have very high expectations about the money that they take home, very high expectations. It is as if they couldn’t survive with a little bit less.\textsuperscript{42}

In order to facilitate the affluence of those at the apex of the firm’s structure and to tread the path to partnership, the norm of life for many corporate lawyers has become a lamentable state in which there is ‘no time for life, no time for exercise or leisure pursuits, and precious little time for family’.\textsuperscript{43}

I don’t think there is any work/life balance. There isn’t any real balance for your life. I think about it. My daughter’s almost eight and my son is 16 months, and you know, I had four months’ maternity leave with Katie\textsuperscript{44} and I came back full time and I used to say I saw her for an hour in the morning and an hour at night and a child’s life is seven days a week pretty much. That’s not enough … And you know you’re exhausted on holiday. I have just had a week off and I worked three of the days I was away.\textsuperscript{45}

You couldn’t go outside for a walk at lunchtime and that was frustrating. It affects your state of mind. You are not getting out into the sunshine, whether it is winter or summer. You are not as connected to the real world. You can’t think. You can’t walk off a bit of stress or anxiety. I was so stressed sometimes, I would just go home and lie on the couch and I couldn’t speak to Michael.\textsuperscript{46} It was just awful, awful. I was a zombie.\textsuperscript{47}

Clearly, stress is a major problem for those working in the contemporary legal workplace:

Stress would be the number one killer of large firm lawyers. Literally and figuratively, you see partners, relatively young partners coming down with cancers and brain embolisms and yes, you’ve really got to wonder about the physical manifestation of stress because we work in an extremely stressful environment, both in terms of the people we work for and the timeframes around that.\textsuperscript{48}

\textsuperscript{42} Female Partner, interview recorded in Melbourne, 22 November 2005.
\textsuperscript{43} Stefani and Delgado (2005), p 64.
\textsuperscript{44} Pseudonym.
\textsuperscript{45} Female Partner, interview recorded in Melbourne, 6 November 2005.
\textsuperscript{46} Her husband (pseudonym).
\textsuperscript{47} Female Solicitor, Interview recorded in Melbourne, 4 February 2006.
\textsuperscript{48} Male Senior Associate, interview recorded in Melbourne, 20 October 2005.
Indeed, burnout\(^{49}\) amongst lawyers is known to smolder beneath the icy waters of egoistic calculation and material success, and it leads to psychological problems, including anxiety, depression, addiction and suicide.\(^{50}\) Marx proffered that the social conditions which characterised his bourgeois epoch\(^{51}\) fomented workplaces that mortified the bodies of workers and ruined their minds.\(^{52}\) The parallels here would seem to be worth exploring.

But first, in utilising Marxian theory it must be acknowledged that there are doubts held by some scholars that Marxism is useful as a strategic theory of social change, especially for women. Christine Di Stefano, for example, argues that Marxism is so profoundly embedded within a masculinist horizon of meaning and sensibility that Marxist-feminist thought must be rendered misguided and is a (possibly) self-refuting hybrid.\(^{53}\) A quarter of a century ago, however, Heidi Hartmann found it logical to turn to Marxism as an analytical tool because Marxist philosophy was a well-developed theory for social change. She nevertheless cautioned against being side-tracked from feminist objectives.\(^{54}\) For Hartmann, in order to better understand Western liberal democratic society and women’s position as women within it, Marxist analysis provided some essential insights into the laws of historical development – particularly those of capital, which have evolved to prescribe women’s lives.\(^{55}\) It is argued here that Hartmann’s assertion remains valid.

There is no doubt that the Marxian challenge to the hegemony of political economy, and its machinery, is intellectually constructed on an ontological and epistemological framework of masculinist transcendence.\(^{56}\) Marx’s procedure in his account of ‘human labour’ was in fact ‘to set out from men’s labour and to ignore the specificity of women’s labour’.\(^{57}\) Hence, in his critical challenge to the bourgeois epoch, Marx abjectly failed to capture substantive dimensions of women’s lives, and therefore human existence. His theory of alienated labour is therefore necessarily deficient and in need of restoration before it can carry the resonance it deserves for the men and women who labour in legal practice in the neo-liberal, global epoch.

In erasing the questions of sex and gender in relation to women’s labour from his account of the systemic oppression of workers by a dominant grouping, it is evident that Marx over-simplified the complex power

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\(^{49}\) In Australia, the burnout syndrome in legal practice was noted back in 1985 to have become a ‘sign of the times’. See Norquay (1985), p 337; Chung (1995); Wentworth (2005), p 26.

\(^{50}\) Gautam (2006).

\(^{51}\) Marx (1972a), p 338.

\(^{52}\) Marx (1972b), p 60.

\(^{53}\) Di Stefano (1991a), p 147.

\(^{54}\) Hartmann (1981), p 30.


\(^{56}\) Di Stefano (1991a), p 147.

\(^{57}\) Hartsock in Di Stefano (1991a), p 152.
relations that underpin the material reality of alienated existence. Nevertheless, his account of human labour in the bourgeois epoch still provides a very useful starting point for a discussion on the social meanings of the chasm which divides the legal workplace today.

**Charles Derber’s Refinement of Proletarianisation Theory**

For Marx the *proletarian* was a working man driven to self-estrangement and pitted in the class warfare of labour against a capitalist who was dominated by money-worship. Corporate lawyers, on the other hand, as the ‘conceptive ideologists of capital’, have long been equated with elitism and control, and would appear at first instance to be more appropriately categorised as bourgeoisie. In his thesis on the proletarianisation of the professional, Charles Derber argued that professionals in advanced Western societies increasingly were becoming subject to the power and control of others. As such, in the ‘new knowledge’ and service markets, professional workers were experiencing the subordination to public bureaucracies and corporate power that had long been endured by other workers.

Derber’s theory on mental labour in advanced capitalism contradicted the social theorists of the time, who argued that professionals as the *new knowledge workers* in advanced economies were at the core of a new technocracy that was ‘wrestling power from the captains of industry’. Others had identified a rise in professional imperialism emanating from the rise of professional authority in the new technocratic order. The basic tenet of Derber’s argument was that professional workers were becoming less and less authority figures who were able to maintain control over their own tasks and objectives. Their work was increasingly subject to the control and direction of management, and their knowledge – if still intact – was becoming so specialised and narrowed that it no longer served as a basis for power and control.

Derber identified employed professionals as the key new actors in contemporary capitalism. In accord with sociological and class theorists of the time, he observed that although the numbers of employed professionals had

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58 Tucker argues that *Capital* should be read as a *drama* rather than a straight treatise of economics. It treats capitalism as a quasi-religious phenomenon. See Tucker (2001), p 203.

59 Cain (1979), p 331.


61 These theorists were writing in the 1970s and 1980s. The research for this article revealed the contradictory ways in which the technological advances that underpin market liberalism in the new millennium interact with, but generally support, Derber’s theory of the proletarianisation of the professional (in corporate legal practice).

62 See Galbraith (1967).


65 Among whom he cites Bell (1976); Touraine (1971); and Poulantzas (1975).
increased markedly, the opportunities for self-employed professionals had declined to the same extent. Derber explored the meaning and implications of the ‘new dependent employment’ for the organisation and identity of professional workers. He argued that salaried professionals were losing their autonomy over both the means and the ends of their labour. They were becoming depprofessionalised. Those who lose control over the means of their labour are subject to a process he termed technical proletarianisation. They lost control over the process of the work itself and had little control over bureaucratic regimes, rhythm or pace of the work they performed. It is certainly the case in corporate legal practice that management practices are functioning to deliver less, rather than more, control for practitioners over the processes of their work:

Look – the internal bureaucracies of the big firms are mind-boggling. I came from a mid-tier at the start and it’s far more corporate here in a sense and it’s incredibly structured. You can’t scratch your bum without having to speak to four people basically.

Q. So are all things a little more formal now in terms of management?
A. They are, we are managed a whole lot more like a business … And when at the same time as working your people harder your mechanisms for screwing down costs are now much stricter, they involve a whole lot more bureaucracy and a whole lot more imitation of how a business would operate, and that involves more time. To get a cheque out now is a horror experience.

Those who lose control over the ends of the labour – that is, the goals and social purposes to which their work is put – are subject to what Derber termed ideological proletarianisation. Derber argued that salaried professional workers were subject to ideological proletarianisation as their integrity was being threatened by the expropriation of their values or sense of purpose in the post-industrial workplace. This caused a profound loss of independence, which for those workers crystallised in the loss of their ability to define the ends to which their work was directed. They therefore became – like other workers – mere functionaries, losing the chance to align themselves with the central professional service goal, which is to serve those in need with the highest standards of humane and technical practice.

It is the case that many lawyers as professional workers in the top-tier firms are subject to the ‘heteronomous management practices, authority and control’ as identified by Derber, and undoubtedly the legal profession’s

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68 Male Partner, Interview recorded in Melbourne 7 December 2005.
69 Male Senior Associate, Interview recorded in Melbourne, 4 August 2005.
'excessive proximity to business clients and their money'\textsuperscript{73} is also highly problematic. Indeed, not only is the discretion and autonomy of individual lawyers subject to those controlling work practices within their firms:

Partners won’t really tell you about a matter so you can give a considered viewpoint – It’s ‘You are just going to do what I tell you and if you do it badly, well great, because I don’t want you on the team anyway.’ So it is control through knowledge. And it is not even intellectual knowledge. It’s not that you have to be bright to know it. It is simply about controlling it … So you are scrambling around trying to find out some way to get on a footing with them.

Q. So it’s not an honest approach where they are trying to get the best out of you, to grow you?
A. No, because they don’t want too many people at the top sharing the profits. It is an apex. It isn’t a pie.\textsuperscript{74}

but the autonomy of the firms to operate as a micro-centre of power \textit{vis-à-vis} their clients is highly questionable under the pressured conditions for business in the neo-liberal market economy:

Lawyers are now bit parts of project teams where you have a goal to achieve. And that means that you have an imperative which is the client’s commercial aim and that is not always consistent with your obligations in relation to conflict and in relation to professional courtesy.\textsuperscript{75}

It is clear that the loss of autonomy in the legal workplace is impacting on lawyers as lawyers, irrespective of their gender.\textsuperscript{76} Nevertheless, it will now be argued that the process of the proletarianisation of professional workers functions very specifically to deleteriously impact on the lives of women lawyers with family work responsibilities who are working in corporate law firms.

\textbf{Sex and the New Legal Proletariat}

\textit{The Gendered Norm of the Long Hours Regime}

Although the research revealed some dissenting opinion from a few senior partners regarding the extent and characterisation of hours currently being
worked, it is generally accepted that the organisation of work in corporate law firms continues to be designed around an entrenched long-hours regime. Indeed, horror stories regarding the long-hours culture abound:

Look, the reason why – it [flexible hours] does not work is that to run a good sustainable practice, it’s 24/7. If you say, ‘I’m going to work Monday, Wednesday and Friday’, that’s fine for you but for the clients, unless they’re very, very accommodating clients, it just doesn’t fit.

Q. So it’s client driven?
A. Yes. Client driven … In order to deliver a good service to a client, which is as good if not better than any of your competitors, you’ve just got to be here.

Q. 24/7?
A. Not that we always work those hours but the clients know and will ring you whenever they choose to.

What’s frightening I think is that a lot of the junior people wear it as a badge of honour that they’ve worked 24, 48 hours straight. Frankly, I think they’re dangerous at that point because they’re not capable of thinking straight … You can’t draft a sensible document when you’ve been working those sorts of hours.

Jurisprudential scholar Joan Williams argues that the long-hours regime in major legal practice is built on the masculine norm of immunity from family work. In her examination of the conditions that produce the system of organising market work and family work in Western liberal democracies, Williams has developed the construct of the ‘ideal worker’. For Williams, market work is organised around the notion of an ideal worker who works full time, plus overtime, and takes little or no time off for childbearing or childrearing. As such, this ideal worker norm is framed around traditional life patterns of men and excludes most mothers of childbearing age. According to Williams, the ideological base for the structure of market work is the gender system of domesticity. The two defining characteristics of domesticity are, first, its organisation of market work and, second, its system of economically marginalising caregivers and effectively preventing them

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77 One partner, for example did not identify a long hours culture in law firms at all but rather a service-oriented culture. For him the hours and time of the day were less relevant than the servicing of clients.

78 This is consistent across common law jurisdictions. For example, see Johnson (1991); Smith (2006); Wallace (1997).

79 Male Partner, interview recorded in Melbourne, 2 February 2006.

80 Female Partner, interview recorded in Melbourne, 8 September 2005.


82 Although Williams’ focus is on family and work conflict in the United States, her thesis can clearly be applied in other Western liberal-democratic nation states.
from undertaking social roles that offer responsibility and authority other than that administered in the familial or domestic sphere.\textsuperscript{83} For Williams, domesticity establishes norms that are identified by successful gender performance of breadwinner/housewife roles and their associated character traits. Under domesticity’s ideological regime, aligning with Enlightenment ideals of the human nature of both genders,\textsuperscript{84} men are described as competitive and aggressive, and therefore ‘naturally’ belong in the market. By contrast, women – because of their focus on relationships, children and an ethic of care – ‘naturally’ belong at home.\textsuperscript{85}

Those ideological notions are still very evident in the minds of contemporary corporate legal practitioners:

But I say families [are a career barrier] because sadly, until we’re able to turn Arnie Schwarzenegger into reality, only women can have babies. So they are the ones who have the most immediate decision to make: ‘Do I stay at home or do I get the nanny in and hand over responsibility?’ And I still think there’s probably a great feeling of responsibility on the maternal side, for societal reasons, because society tells us that the men go out and work and the women will stay home and look after the children, so it’s a very difficult issue and we’ve been trying to find ways to address it here. And it still is an issue. So it is an impediment in the sense that it means that the female member who has a family, can’t go on to be a partner … The practice tends to be: ‘Get your partnership, then have your family.’\textsuperscript{86}

Williams points out that although the ideal worker norm doesn’t define all jobs, it does define the good ones, such as high-level executive and professional positions.\textsuperscript{87} Certainly, the ideal worker norm serves as a principal systemic barrier to career advancement for most women, particularly WFWRs. The long hours expected are inimical to the retention and full professional development of most WFWRs, but nevertheless are continuing to serve as a rite of passage along the path to partnership:

I think the long hours culture comes from a different generation who worked in that way and they think ‘This is the school of hard knocks. I came through it and it was fine for me and when I was your age I had to work.’ Lots of those partners and senior people still work those hours and they’re bitter and twisted about it. They still say ‘If you’re

\textsuperscript{83} Williams (2000), p 1.
\textsuperscript{84} Those assigned to men and women by the philosophical dictates of liberal individualism. See Jagger (1988), pp 46–47.
\textsuperscript{85} Williams (2000), pp 1–2.
\textsuperscript{86} Male Partner, interview recorded in Melbourne, 22 November 2005.
\textsuperscript{87} Williams (2000), pp 1–2.
going to get anywhere, that’s important.’ And changing that culture is very subtle.88

What is not so subtle, and not so plausible if the assumptions underpinning it are unpacked, is the inference that women lawyers who have family commitments cannot work hard at their jobs. What is assumed is that family commitments take up time that should be dedicated to the firm. Such a notion appears to take no account of quality of work produced so long as the requisite number of ‘billables’ are produced in doing it. In such a reckoning, even the most brilliant work, if performed by part-time workers in smaller snatches, counts for little unless the ‘hard yards’ can be seen to be performed by the number of billable hours recorded on the slate, as the mindset of one lawyer confirmed:

Barriers that impede career advancement do vary a lot from person to person but my observations would be not being willing to do the ‘hard yards’. We’re still very much a profession that values hard work and so that often cuts out women with family commitments.89

It is a well-researched phenomenon that women in the workplace must often work harder than men to prove that they are capable of performing the job required.90 Certainly a beneficial subject position for a woman with her eye on her career path is that of a pseudo male:

I decided for the first time in my performance review I was going to go in as a male, and I was going to negotiate it like a bloke, and I was going to be tough with them and I was going to tell them exactly what figure I wanted. So I got data from the industry, from someone who had access to that data and I waved it in front of them and they responded accordingly which I was absolutely astonished about. They gave me a whacking pay rise and I must say I’m very happy with it.91

If you’re a woman, unless you can outdo them in the masculine model you haven’t got a hope.

Q. So the women who make it in the firms are the pseudo males?
A. Yes, most girls will tell you, most young lawyers will say, ‘The women are worse to work for than the men.’ They will all say that ‘I hate the female partners.’ … The one thing that really, really astounds me is the degree to which they have licence to treat people so badly.92

88 Female Partner, interview recorded in Melbourne, 10 November 2005.
89 Female Partner, interview recorded in Melbourne, 22 November, 2005.
90 For example, see Friedan (1981), pp 256–57; Fuchs Epstein (1993), pp 278–79.
91 Female Special Counsel, interview recorded in Melbourne, 8 November 2005.
92 Female Solicitor, interview recorded in Melbourne, 23 January 2006.
For women who are other than pseudo males, much of their bravado is used to battle unfounded assumptions in the mindsets of colleagues that if they are WFWRs working part time, they are not committed to the firm:

I’ve worked part-time for a long time and … you need to be very organised and I think you also need to put in extra. It’s almost like you have to prove yourself, to prove that you’re committed. It’s like, ‘Yes, of course I can do that, and sure, I’ll do that on my day off. No problem!’ You’re really having to prove yourself 110 per cent.93

It is worth considering whether, from the standpoint of those setting the agenda in contemporary market-driven legal practice, there is good reason to continue to set WFWRs adrift from the path to partnership. In the mid-1990s, Margaret Thornton’s research revealed that the growth of mega-firms, with their inevitable bureaucratisation, had led to a significant increase in the proportion of employed solicitors who were lacking in autonomy and independence. In addition, she noted that that bureaucratisation within these firms was a gendered phenomenon, increasing the power of elites at the upper echelons and decreasing that of those at the base. Further, that hierarchical ordering led to “superordinate positions becoming masculinised, and subordinate positions becoming feminised, in accordance with the conventional social script”.94

More than a decade on, little – if anything – has changed. Flexible work practices, part-time work and job-sharing are all seen as subordinate positions and the purview of women.95 It is the case that in an environment in which:

partners in the big firms want the big dollars and that means that the people in the firms have to work harder and harder for more of the year.96

WFWRs who take up flexible work arrangements are in fact seen by those in superordinate positions within firms as the factory fodder necessary to fulfil a subordinate – indeed proletariat – role.97 In so doing, both the lifestyle patterns for the superordinate individuals concerned and the profit-share for the firms can be maintained. As such, this proletariat can be distinguished from that of Marx,98 in that it is sexed. Its members comprise mothers who

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93 Female Partner, interview recorded in Melbourne, 22 November 2005.
95 Thornton and Bagust (2007), pp 786–95.
96 Male Partner, interview recorded in Melbourne 20 November 2005.
98 Feminists have noted that Marx was gender blind in his critique of the antagonistic division of labour in capitalist production. His concept of human nature, in privileging what he actually saw as ‘productive labour’ over ‘reproductive labour’, which he failed to
have made the decision to partake in the flexible work practices on offer from their firm on their return to paid work. Nevertheless, if resplendent in their fecundity, they are tarnished by their toil:

Those people who work those hours [flexible hours] tend to be in jobs which are, perhaps not dead end, but like, doing corporate secretarial issues or doing bulk mortgage type of work.99

The vast majority of women I know who have been on maternity leave come back and end up doing precedent work, which is considered the career graveyard. It’s basically ensuring that there are precedent documents and knowledge management and it’s unglamorous and unexciting work as a general rule.100

Not for these women, the intellectual stimulation and emotional buzz of autonomously building their practice, working with clients and closing deals. Rather, they are assigned knowledge-management work, such as preparing and updating precedent documents in order to support the dealings of their live-wired and ‘on track’ colleagues.101 As such, they can be seen to be technically proletarianised102 by the regimentation and routinisation of the work they perform:103

Typically when women go off and have families and come back, they do not come back as a practising lawyer. They might go and work in knowledge management or they might do a stint in – it used to be markets and HR … It’s basically assembling the knowledge that the firm has – notices and documents and all those sorts of things … I’m trying to think if there are any people in knowledge management who are not women.104

Sex-ordered Job Segregation?

Worthy of re-examination here is the important Marxist feminist of ‘patriarchal ordering’ by Heidi Hartmann. What is distinctive about Professor Hartmann’s analysis is that she firmly rivets the concept of patriarchy to a material, rather than ideological, base – that is, men’s historical control over women’s labour power by excluding women from

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99 Male Senior Associate, interview recorded in Melbourne, 4 August 2005.
100 Female Senior Associate, interview recorded in Melbourne, 6 October 2005.
104 Female Partner, interview recorded in Melbourne, 1 December 2005.
access to certain productive resources (such as prestigious, highly paid jobs) and restricting women’s sexuality.\textsuperscript{105}

Hartmann defined patriarchy as ‘a set of social relations between men, which have a material base, and which, though hierarchical, establish or create interdependence and solidarity among men that enable them to dominate women’.\textsuperscript{106} She argued that the historical emergence of capitalism, with its ‘free market’ in labour, threatened patriarchal control based on institutional authority, particularly in the family. The successful extension of male–female dominance–dependence into the wage-labour market, however, sustained the system of patriarchal dominance and proved to be a key basis for women’s continued subordinate status.\textsuperscript{107} Indeed, Hartmann depicted patriarchy as women’s struggle against men, and she was highly critical of the actions of male workers in limiting the participation of women in the labour market throughout the historical evolution between patriarchy and capitalism. Further, for Hartman, patriarchal social relations in the nuclear family, reinforced by the state and religion, ensured that women became more dependent on men economically, and she argued that the dominant position of men was maintained not only by capitalism itself in controlling the labour process, but also by ‘ordinary men, men as men, men as workers’ who instituted sex-ordered job segregation in the labour market.\textsuperscript{108}

It must be acknowledged here that in the interview process conducted for this research, no evidence was found of any overt ‘council of war’ by male practitioners, either as men or as workers, to limit the participation of their female colleagues. Nevertheless, work practices in corporate law firms do facilitate the maintenance of the dominant position of male lawyers, and the justification for the retention of these practices would appear to be steeped in systemic attitudes and beliefs about traditional gender roles. Certainly, it is worryingly evident that the WFWRs who elect to take advantage of flexible work practices are, upon their return to work, subjected to sex-ordered job segregation as identified by Hartmann. Undoubtedly, this practice enables workers without family-work responsibilities to increase efficiencies in their individual business units and to proceed more rapidly along their career paths within the firm. It is, of course, being achieved on the backs of the under-utilised labour of highly trained women lawyers who happen to have family-work, in addition to their paid work, responsibilities.

\textbf{The Legal Proletariat}

The notion that women lawyers serve as a legal proletariat is not new. In 1988, in their research into class structure and legal practice among lawyers in Canada, Hagan and colleagues concluded that in the legal profession in Toronto, women lawyers – especially those not employed full time – were in

\textsuperscript{105} Hartmann (1981), p 15.
\textsuperscript{106} Hartmann (1981), p 14.
\textsuperscript{107} Hartmann (1979), pp 230–31.
\textsuperscript{108} Hartmann (1979), p 208.
an underclass of semi-autonomous employees and were more than twice as likely as men to be found there.\textsuperscript{109} Women were significantly and disproportionately under-represented amongst those the authors classed as \textit{managerial bourgeoisie}, \textit{supervisory bourgeoisie} and \textit{small employers}.\textsuperscript{110} Interestingly, the data suggested that women could well have been getting to the top of the profession in increasing numbers if time in the profession was taken into account.\textsuperscript{111} Such a finding would appear to reflect the ‘flush of success’ of second-wave feminism\textsuperscript{112} before it was blackened at the roots by the chilling dawn of neo-liberal ascent.

In the hierarchy of corporate and commercial law firms, however, the authors noted that a working-class category of lawyers existed. They were sometimes called the ‘junior drones’. These comprised in large part new associates who were subject to a very explicit kind of exploitation. Then, a new associate earning $43,500 per year would be expected to bill approximately 2500 hours in a year at a charge-out rate of $87 per hour, and thus generate around $217,000 in revenue for the firm.\textsuperscript{113} The large element of decimating lackeysing and drudgery borne by the ‘drones’ at the bottom of the pyramidal law firm structure, who were at the behest and control of lawyers up the ladder with the ability to command the firm’s human resources, was largely expected within the profession – and indeed considered a necessary part of achieving partnership.\textsuperscript{114} The inequality experienced in such case would be accepted as a precursor to the expected upward mobility. Hagan and colleagues noted that as a result of their domination and limited autonomy, and because their exploitation was clear, the ‘junior drones’ formed part of the new ‘professional proletariat’.\textsuperscript{115} Unlike Marx’s proletariat, however, their high salaries and good prospects for upward mobility allowed ‘little prospect of rebellion’,\textsuperscript{116} let alone the formation of a revolutionary consciousness!

Considering the construct of a legal proletariat, the position of new associates as ‘junior drones’ can be distinguished from that of women lawyers as a ‘stable of galley slaves’\textsuperscript{117} toiling in knowledge management. These women, particularly if they are returning from maternity leave, have very limited prospects of getting back on the upwardly mobile track, let alone

\begin{thebibliography}{99}
\item Hagan \textit{et al} (1988), p 31. The categories in the range of class distribution were based on factors such as the number of employees, tier of firm, task and sanctioning authority, participation in policy making and decision making responsibilities: p 21.
\item Hagan \textit{et al} (1988), p 52.
\item Around that time in Australia, feminist legal scholarship was experiencing a ‘flurry of activity’, with special issues of law journals such as the \textit{Australian Journal of Law and Society} in 1986 being devoted to feminist legal theory. See Thornton (2003), pp 7–8.
\item Hagan \textit{et al} (1988), p 49.
\item Wilborn and Krotoszynski (1996), p 1331.
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treading the path to partnership. Further, they can generally expect little help along the way from on high, as the time they spend with their children is seen as incompatible with progress in the professional services firm:

Q. So if you want to go down the partnership track you really have to think about whether to take time out or not?

A. Yes, and if you go away, you can’t go away for too long.

Q. And if you are going to have babies – restrict it to one?

A. Ah! It just wipes your career.  

Well, judging from the partnership, I don’t think the way professional services firms are set up is compatible with women spending time, or in fact people spending time, with children … I think the firm’s structure is against it and I suppose the firm structure is the barrier to advancement.

Within the major firms, however, there are many women lawyers who are putting in extremely hard yards to get the major firms to face the challenges of retaining and promoting women in the law firm environment. Many are members of Australian Women Lawyers (AWL) and/or Victorian Women Lawyers (VWL). To give credit to the firms, some sponsor these organisations by providing funding, furniture and equipment, and secretarial support, and by funding events. In her speech to the 17th Women, Management & Employee Relations Conference in Sydney in 2005, Kate Jenkins noted that the business case for change to the family-unfriendly culture within firms has been researched and is convincing, and that she, in concert with the VWL 2006 Report, had argued that law firm culture fails to heighten the participation of women with young children in the profession. She further argued that the ‘resistance to change is based on fear of change’.  

There are compelling aspects to Jenkins’ analysis. No doubt, fear of change to the way work has always been done in the profession is a repressive element, but if proletarianisation theory is added to the equation, it might well be that the fear that is preventing transformative change to work practices is economically determined. As such, resistance to change is based not merely on an abstract fear of change for the sake of change or change from a ‘comfort’ zone, but rather on the very material fear of losing an unacknowledged but important employment strategy to maintain market

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118 Male Partner, interview recorded in Melbourne, 6 February 2006.
119 Female Partner, interview recorded in Melbourne, 16 September 2005.
120 See Jenkins (2005).
121 See Victorian Women Lawyers (2006b). The timing of my interviews and those for the report were broadly contemporaneous.
122 Jenkins (2005), p 7.
share and profit goals by employing a highly qualified and efficient ‘reserve army’ of female workers ‘to service the master-craftsmen partners’.¹²³

**Conclusion**

Neo-Marxian analysis of the proletarianisation of professional workers reveals that many corporate legal professionals operating within the legal workplace today are experiencing a decline in their professional autonomy. Buffeted about by the highly competitive forces at play in the neo-liberal marketplace, corporate lawyers are finding their professional autonomy increasingly subject to bureaucratisation by their firms and control by their clients. They are at risk of becoming proletarianised, irrespective of their gender. Derber’s neo-Marxian analysis of itself, however, is gender-blind, as was the Marxian account of the bourgeois epoch. Therefore, in examining the proletarianisation process as it is occurring in corporate law firms, this article has utilised a myriad of feminist theoretical positions to interrogate, in particular, the parlous position of women lawyers – particularly those with family work responsibilities – in corporate law firms.

WFWRs are subject to a kind of double jeopardy in that not only must they, in accord with their male counterparts, deal with the stresses brought about by the technical and ideological proletarianisation process that is occurring within their firm, but they must also confront systemic workplace discrimination. Indeed, the first hurdle that women in corporate legal practice must face before they can expect to tread the same path to partnership as their male colleagues is a systemic one. It is the resilient ‘culture’¹²⁴ that remains hostile to substantive equality for women. It is argued here that the mindsets and attitudes of those in the higher ranks of corporate legal practice remain philosophically and epistemologically buttressed in liberalism’s profoundly gendered assumptions in relation to the *ideal worker* norm and traditional gender roles. These factors have not been fossilised into the annals of history. Rather, they remain the basis of the values that ground material and social relations within the corporate legal workplace, and continue to function to delimit women’s labour power. They are the principal reason why best efforts to implement sex equality measures within firms remain largely unsuccessful.

Undoubtedly, in the highly competitive, workplace environment in which corporate lawyers operate today – one in which ‘for a long time it’s been dog eat dog’¹²⁵ – places at the top of the apex are harder and harder to come by:

> It is much more difficult for people to get into partnership now. People are having to wait eight or ten years. It is a big change … and there are a lot of lawyers coming into the marketplace.¹²⁶

¹²³ Sommerlad and Sanderson (1998), p 266.
¹²⁴ Referred to as a ‘need for attitudinal change’ in the empirical studies. For example, see NSW Department for Women (1995), p 4; Victorian Women Lawyers (2006a), p 5.
¹²⁵ Male Partner, interview recorded in Melbourne, 13 December 2005.
¹²⁶ Male Partner, interview recorded in Melbourne, 7 December 2005.
Prospects for real change to the status quo in Australian corporate law firms in which the normative partner is male therefore appear to be quite remote. Those at the apex are:

anticipating taking home high hundreds of thousands – a million dollars plus a year – and doing that on the backs of charging people out at hourly rates in a market which is very tight and where you can’t just keep increasing your hourly rates as a magic pudding …

It is therefore improbable within the prevailing workplace culture that lawyers jostling in the ranks for a stronger foothold on the partnership path will gladly renounce the material privilege or the prerogative that has been accorded to them on the basis of the ideal worker norm. As the Chief Justice of Victoria has noted, ‘there are some on the dark side who would seem to resent women’s achievements in the law. Perhaps they see the women promoted as taking their place, their prize.’

Likewise, in a workplace in which workers’ energies are directed towards individual advancement opportunities rather than making common cause with other workers, it does not seem likely that WFWRs will pick up the gauntlet and associate in order to take direct action against their oppressive workplace regime.

Any attempt to transform the systemic barriers that underpin the continuing gender divide in corporate law firms will require nothing less than destabilising the culture and mindsets of those organising the corporate legal workplace. I have shown that corporate law firm profits are currently being maximised on the backs of the under-utilised and sidelined labour of women lawyers, particularly WFWRs. Furthermore, profoundly gendered assumptions justify the continuation of work practices that are discriminatory and demand redress. Meaningful change must surely depend on success in revolutionising the consciousness of men. That will not easily be achieved, as it will require cultural and attitudinal change to the ideological foundations that ground gender roles in both the public and the private spheres. Presumably, however, a better understanding of the breadth of the problems that systemic barriers present to sexual equality in corporate law firms will enable more targeted and effective responses from those fighting the good fight to facilitate full and equal participation for women. It can only be hoped that we do not have to wait until ‘all that is solid melts into air and all that is holy profaned’ before change occurs.

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127 Male Senior Associate, interview recorded in Melbourne, 4 August 2005.
131 Marx (1972a), p 338.
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