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MILLENNIAL FEMINISMS: HOW THE NEWEST GENERATION OF LAWYERS MAY CHANGE THE CONVERSATION ABOUT GENDER EQUALITY IN THE WORKPLACE

Meghan M. Boone¹

I. INTRODUCTION

Much has been written about the “Millennial generation” and how they are re-shaping the modern workplace,² including the legal profession.³ This body of literature ranges from heralding the Millennial generation as the vanguard for a new age of optimistic, creative team-players,⁴ to decrying Millennials as technology-obsessed,⁵ entitled,⁶ and lazy.⁷ Because Millennials have only

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1. Meghan M. Boone, Clinical Teaching Fellow, Institute for Public Representation, Georgetown University Law Center. The author would like to thank the University of Baltimore School of Law and its Center for Applied Feminism for the opportunity to present this paper at the March 2015 conference on Applied Feminism and Work. She would also like to thank the lawyers—from all generations—who graciously agreed to be interviewed for this project, and the staff of the University of Baltimore Law Review for their help shepherding the paper to its final form.
 2. Brenda J. Kowske, Rena Rasch & Jack Wiley, *Millennials' (Lack Of) Attitude Problem: An Empirical Examination of Generational Effects on Work Attitudes*, 25 J. BUS. PSYCHOL. 265, 265 (2010) (“Anecdotal and theoretical publications exhorting the drastic differences of Millennials at work abound.”). See generally RON ALSOP, *THE TROPHY KIDS GROW UP: HOW THE MILLENNIAL GENERATION IS SHAKING UP THE WORKPLACE* (2008) (noting the differences between generations, as well as the fact that Millennials make up the largest percentage of employees in the workforce).
 3. See generally URSULA FURI-PERRY, *THE MILLENNIAL LAWYER: MAKING THE MOST OF GENERATIONAL DIFFERENCES IN THE FIRM* (2012) (explaining how Millennials are not only increasing in numbers within the legal workforce, but are also primed to take over the higher ranking legal positions when the older generations retire).
 4. See NEIL HOWE & WILLIAM STRAUSS, *MILLENNIALS RISING: THE NEXT GREAT GENERATION 7-8* (2000).
 5. Susan Daicoff, *Working with Millennials in the Law*, ARIZ. ATT'Y, June 2014, at 16, 18, http://works.bepress.com/cgi/viewcontent.cgi?article=1078&context=susan_daicoff (“I was not particularly fond of Millennials. Like most Baby Boomers or Generation X-ers, I complained about my students surfing the internet in class . . . using the Internet instead of books . . .”).
 6. JEAN M. TWENGE, *GENERATION ME: WHY TODAY'S YOUNG AMERICANS ARE MORE CONFIDENT, ASSERTIVE, ENTITLED—AND MORE MISERABLE THAN EVER BEFORE 70* (2006) (labeling the Millennials “The Entitlement Generation”); Jill Schachner

recently begun to enter the legal profession *en masse*, the question of how Millennials will change the modern legal profession is still an open one—although one that has already attracted considerable attention.⁸ Less attention, however, has been paid to how Millennials' unique approach to their professional lives will specifically affect gender equality in the workplace.

Through a review of the available literature about Millennials' workplace attitudes, and reporting on a series of interviews conducted with practicing lawyers and law students,⁹ this paper will discuss how characteristics traditionally associated with the Millennial generation—including their commitment to achieving work-life balance, their desire to advance rapidly, and their comfort with new technology—have the potential to substantially alter gender dynamics in the modern legal workplace. This potential exists despite the fact that Millennials, possibly to the disappointment of many second-wave feminists and lawyers who have long been involved in promoting gender equality in the legal profession, often do not explicitly articulate gender equality as a primary motivation or goal. This apparent divergence between Millennials' impact and their motivation creates a unique opportunity for an inter-generational conversation about what exactly constitutes feminist values and actions, and how lawyers from many perspectives can work together to create a more equal workplace.

II. GENERATIONAL ANALYSIS

A generation is defined as a group of individuals born within a particular time period.¹⁰ Analyzing groups of people through a generational lens means identifying common characteristics, preferences, and attitudes of individuals within a generation, with the

Chanen, *The Great Divide*, A.B.A. J., May 2006, at 44, 47 (quoting a law firm partner lamenting the overdeveloped sense of entitlement of young lawyers).

7. FAMILIES & WORK INST., GENERATION AND GENDER IN THE WORKPLACE 28 (2002) (noting that popular press has often labelled the newest generation as “slackers”).

8. See generally FURI-PERRY, *supra* note 3; Chanen, *supra* note 6.

9. Interviews were conducted in early 2015, with lawyers engaged in diverse types of employment—including private law firms of various sizes, government agencies, public interest organizations, and academic institutions. A limited number of law students were also interviewed. In order to encourage the subjects to be as candid as possible, all of the interviewees were promised anonymity. Therefore throughout the text, each interview is only identifiable with a number and date. Full transcripts of all the interviews are available from the author (with identifying information redacted).

10. *Generation*, MERRIAM-WEBSTER ONLINE DICTIONARY, <http://www.merriam-webster.com/dictionary/generation> (last visited Dec. 30, 2015) (“[A] group of people born and living during the same time”).

expectation that similarities exist between those who have experienced the same historical events in the same period of their lives.¹¹

Analyzing any large and diverse group of people through a primarily generational lens inherently comes with some pitfalls. The generational analysis approach has been critiqued for a variety of reasons—both theoretical and practical.¹² Perhaps most acutely, generational analysis has been plagued by a tendency to conflate age (physiological growth, developmental stage, and accumulation of experience), period (historical or cultural events), and generation.¹³ Certainly, it is impossible to describe an entire generation of people as possessing particular characteristics without recognizing variability within such a generation.¹⁴ Indeed, although most of the lawyers interviewed for this project expressed feelings about the legal workplace consistent with the other lawyers in their generational cohort, there was usually at least one lawyer who felt differently than the others in his or her generation about any particular topic.

Nevertheless, a growing body of literature supports the idea that there are identifiable characteristics that, while not shared by each and every member of the Millennial generation, are widespread and not necessarily attributable to their relative youth or developmental stage.¹⁵ Further, even though each and every member of a generation will not feel exactly the same on any given topic, the similarities between individuals from a particular generation are worth exploring.

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11. See Kowske, Rasch & Wiley, *supra* note 2, at 266 (“Shared experiences at key developmental points contribute to the unique characteristics (e.g., values, attitudes, personality) that define and differentiate one generation from another.”).
 12. *Id.* at 268 (finding that although empirically slight differences in generations may exist, it is debatable whether tailoring policies to meet these slight differences is worthwhile). See generally Elspeth Reeve, *Every Every Every Generation Has Been the Me Me Me Generation*, WIRE (May 9, 2013, 1:35 PM), <http://www.thewire.com/national/2013/05/me-generation-time/65054> (providing alternative explanations for perceived generational differences between Millennials and earlier generations cited by the popular media, including small and homogenous samples, economic factors, and stage-of-life differences).
 13. Kowske, Rasch & Wiley, *supra* note 2, at 268 (describing difficulties in isolating the effect of generation as distinct from these other categories).
 14. Susan K. McClellan, *Externships for Millennial Generation Law Students: Bridging the Generation Gap*, 15 CLINICAL L. REV. 255, 258 (2009) (noting that “[g]eneralized traits for any generation are just that: generalized”).
 15. See, e.g., PEW RESEARCH CTR., MILLENNIALS: A PORTRAIT OF GENERATION NEXT (Paul Taylor & Scott Keeter eds., 2010); Jean M. Twenge et al., *Generational Differences in Work Values: Leisure and Extrinsic Values Increasing, Social and Intrinsic Values Decreasing*, 36 J. MGMT. 1117 (2010).

Finally, whether or not there is consensus about the relative merit of generational analysis, its continuing viability as a topic in the popular media suggests that there is something appealing about the generation as a unit capable of analysis; something that has the ring of truth when compared to lived experience. For their own part, a majority of Millennials say that their generation does have “a unique and distinctive identity.”¹⁶

III. THE MILLENNIALS—WHO THEY ARE AND WHAT THEY WANT

Researchers have offered a number of different delineations for the start of the Millennial generation,¹⁷ but for purposes of this paper the Millennial generation will be defined as those born in 1980 or after.¹⁸ Millennials are the generation of the “protected child,”¹⁹ whose coddled home lives existed in sharp contrast to the headline events that shaped their youth—the shootings at Columbine, the terrorist attacks of September 11th,²⁰ and the economic meltdown that, for many Millennials, marked their entrance into the professional workplace.²¹ They are also the first “digital natives”—individuals who grew up with modern technology.²² Even the Internet, by birth

16. PEW RESEARCH CTR., *supra* note 15, at 5.

17. See LAUREN STILLER RIKLEEN, *YOU RAISED US—NOW WORK WITH US: MILLENNIALS, CAREER SUCCESS, AND BUILDING STRONG WORKPLACE TEAMS*, at xix (2014) (noting that researchers mark the start of the Millennial generation as early as 1978 and as late as 1982).

18. PEW RESEARCH CTR., *supra* note 15, at 4. Generation X is comprised of people born from 1965 to 1980. The Baby Boomers are comprised of those born from 1946 to 1964. *Id.*

19. See HOWE & STRAUSS, *supra* note 4, at 31–32.

20. PAUL TAYLOR, *THE NEXT AMERICA: BOOMERS, MILLENNIALS, AND THE LOOMING GENERATIONAL SHOWDOWN* 27 (2014) (noting the cultural moments that have defined the Millennial generation).

21. Jennifer J. Deal, David G. Altman & Steven G. Rogelberg, *Millennials at Work: What We Know and What We Need to Do (If Anything)*, 25 J. BUS. PSYCHOL. 191, 194 (2010) (“Though all generations are affected by the global economic downturn that began in 2008, the high youth unemployment rate is likely to have a material effect on the attitudes and lives of young people that may result in generational differences.”); Catherine Rampell, Opinion, *The Recession’s Lost Generation? Older Millennials*, WASH. POST (Feb. 2, 2015), http://www.washingtonpost.com/opinions/catherine-rampell-older-millennials-are-paying-the-price-for-bad-timing/2015/02/02/4ef644c8-ab1c-11e4-ad71-7b9eba0f87d6_story.html (noting the negative effect of the economic recession on older Millennials).

22. See generally Marc Prensky, *Digital Natives, Digital Immigrants*, ON HORIZON, Oct. 2001, at 1, 5.

year, is a Millennial.²³ The oldest Millennial lawyers could have entered the legal market in 2004, at the earliest,²⁴ although they have done so in increasing numbers in the decade since then.²⁵

While there are a wide variety of characteristics attributed to Millennials, the following sections discuss three that are particularly germane to the legal workplace. These traits include a commitment to an expansive definition of work-life balance, a desire for rapid career advancement, and the ability to seamlessly integrate technology into their professional and personal lives.

A. Millennials and Work-Life Balance

The amorphous goal of attaining a “work-life balance” is discussed so often among lawyers that it is almost fair to say that the search for such balance is a permanent fixture of the legal profession.²⁶ But despite the scores of legal articles, books, and blog posts written about attaining this balance, it is widely accepted that finding work-life balance in the law is still notoriously difficult.²⁷ As one Gen-X lawyer described, maintaining work-life balance as a lawyer “feels like having to juggle all the balls all the time.”²⁸ Several of the lawyers interviewed for this project actually maintained that it is not possible to achieve work-life balance in the legal profession, particularly as a litigator, as a full personal life simply cannot be

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23. Serena Willoughby, *Happy 25th Birthday Internet: A Look Back on the Year the Web Was Born*, STAR (Mar. 11, 2014), http://www.thestar.com/life/technology/2014/03/11/happy_birthday_internet_a_look_back_on_the_year_the_web_was_born.html (describing events surrounding March 12, 1989, the day marked as the birth of the world wide web).
 24. This assumes a graduation from high school by, at the earliest, age seventeen, graduation from an undergraduate education by twenty-one, and graduation from law school at twenty-four. See *supra* note 18 and accompanying text.
 25. See FURI-PERRY, *supra* note 3, at 11–12.
 26. For an example, the popular legal blog ABOVE THE LAW has a unique tag for articles which discuss some aspect of work-life balance. Searching by this tag turns up hundreds of articles, and it is rare that a single month passes without there being at least one article bearing this tag. See ABOVE THE LAW, <http://abovethelaw.com> (last visited Dec. 30, 2015).
 27. *Work-Life Balance*, 42 COLO. LAW. 65, 65 (2013) (quoting a senior lawyer asking, “Does anyone ever achieve a satisfactory balance? Face it, working as an attorney is stressful, high-powered work performed mostly by over-achievers. Few in the profession who work full-time can honestly say they have a reasonable work-home balance.”).
 28. Interview No. 16 (Feb. 9, 2015).

squared with the requirements of the job.²⁹ As billable hour requirements continue to increase, it is hard to imagine how pursuits outside of work could be meaningfully integrated into a lawyer's life without sacrificing sleep entirely.³⁰

The lack of balance can result in many negative outcomes for lawyers, including illness and depression.³¹ As one of the lawyers I interviewed noted, "the statistics are fairly indicative that lawyers are prone to things like substance abuse and increased rates of self-harm because in general the legal profession doesn't afford that balanced approach to life."³² And even if a lawyer can avoid these more serious issues, the constant stress of the profession leads many lawyers to simply burn out.³³

Whether or not it is possible to attain an acceptable or desirable work-life balance in the legal profession, it appears that Millennials are more concerned with achieving this balance than the generations before them.³⁴ Studies that control for other potential contributing

29. See, e.g., Interview No. 5 (Jan. 11, 2015); Interview No. 10 (Jan. 23, 2015); Interview No. 12 (Jan. 30, 2015).

30. Eli Wald, *A Primer on Diversity, Discrimination, and Equality in the Legal Profession or Who Is Responsible for Pursuing Diversity and Why*, 24 GEO. J. LEGAL ETHICS 1079, 1123 (2011) (noting that since its introduction in the 1950s, the billable hour requirements have "dramatically increased"). The lawyers I spoke with cited billable hour requirements ranging from 1650 to 2000 hours per year, but almost all simultaneously indicated an unspoken expectation of their employers' that these requirements not only be met, but exceeded. See, e.g., Interview No. 5 (Jan. 11, 2015). In an ABOVE THE LAW article, the author discusses a partner's email to associates at Quinn Emanuel which indicates that if an associate was "billing under 200 hours a month," that was an indication that they likely should take on additional work. See Elie Mystal, *How Many Billable Hours Do You Have to Work Before You Are 'Busy'?*, ABOVE THE LAW (Apr. 16, 2012), <http://abovethelaw.com/2012/04/how-many-billable-hours-do-you-have-to-work-before-you-are-busy/>. Stated differently, a Quinn Emanuel associate was expected to be billing, at a minimum, 2400 hours per year. See *id.*

31. See Brittany Stringfellow Otey, *Buffering Burnout: Preparing the Online Generation for the Occupational Hazards of the Legal Profession*, 24 S. CAL. INTERDISC. L.J. 147, 160 (2014); Richard Collier, *'Love Law, Love Life': Neoliberalism, Wellbeing and Gender in the Legal Profession—The Case of Law School*, 17 LEGAL ETHICS 202, 207 (2014) (collecting articles about "the unhappy lawyer").

32. Interview No. 7 (Jan. 14, 2015).

33. See Otey, *supra* note 31, at 161–67 (describing burnout in the legal profession, and arguing that Millennial lawyers are especially susceptible to burnout).

34. Tom Gimbel, *Managing Millennials*, LEGAL MGMT., Oct./Nov. 2007, at 20, 22 ("Unlike members of preceding generations who anchor themselves in work, millennials favor more family time, less travel, and less personal pressure. They view life and work as two separate entities—and life comes before work. Millennials do not view it as work/life balance, but rather as life/work balance.").

factors show that Millennials “place[] [a] significantly greater emphasis on leisure time relative to both GenX and Boomers.”³⁵ A full 87% of Millennials in one study said that work-life balance matters.³⁶ Millennials are twice as likely as young people from previous generations to rate having a job with at least two weeks of vacation as “very important.”³⁷ When queried, human resource professionals say that two of the four biggest expectations of Millennial workers are flexible work schedules and more vacation or personal time.³⁸ Millennials have rejected the “work-centric” lifestyle favored by many Baby Boomers,³⁹ they are 40% less likely than Boomers to describe themselves as “work-centric.”⁴⁰ Instead, Millennials have, “really . . . bought into this work-life balance phenomenon.”⁴¹ Thus, most Millennials “desire to shape their jobs to fit their lives rather than adapt their lives to the workplace.”⁴²

The importance that Millennials place on work-life balance sets them apart from the generations of lawyers who preceded them. As one Millennial interviewee noted: “I’ve had very, very different experiences with how people of other generations think about work-life balance.”⁴³ This contrast in the approach to work-life balance can cause tension between Millennials and their supervisors. As one Boomer lawyer described:

I think there is a difference that Millennial lawyers are more demanding of work life balance. They are much more likely to say “its quitting time I’m going to stop” and I think that older generations of lawyers may view that as less professional because there is a sense that if you are a professional you are more dedicated to getting things done, and you don’t make those distinctions.⁴⁴

35. Twenge et al., *supra* note 15, at 1131.

36. Andrea Hershatter & Molly Epstein, *Millennials and the World of Work: An Organization and Management Perspective*, 25 J. BUS. PSYCHOL. 211, 219 (2010).

37. Twenge et al., *supra* note 15, at 1132.

38. See ALSOP, *supra* note 2, at 26.

39. See FAMILIES AND WORK INST., *supra* note 7, at 3.

40. *Id.*

41. Chanen, *supra* note 6, at 48.

42. Ron Alsop, *The ‘Trophy Kids’ Go to Work*, WALL ST. J. (Oct. 21, 2008, 11:59 PM), <http://www.wsj.com/articles/SB122455219391652725>.

43. Interview No. 17 (Feb. 9, 2015).

44. Interview No. 12 (Jan. 30, 2015).

This type of sentiment is often articulated by Boomer lawyers, who may see Millennials' preference for better work-life balance as a signal that they are less dedicated to their career.⁴⁵

For their part, Millennials may resent that their choices regarding work-life balance are interpreted by some older lawyers as an indication that Millennials are less dedicated, when they themselves believe it simply reflects a different set of priorities from their Boomer-generation parents.⁴⁶ While Millennials still desire success in their careers, they believe they can achieve it while also attending to non-professional goals and desires.⁴⁷

This discussion is complicated by the fact that, while many lawyers say they support work-life balance, there is no agreed upon understanding of what that balance actually looks like in practice.⁴⁸ In other words, what seems like "balance" to one lawyer may seem like "slacking" to another. As one Boomer interviewee articulated:

It's interesting, I think most older lawyers in theory support [work-life balance] and think it's a good thing because we have this idea that we want workplace fairness and people should have time to devote to their outside interests and families and, you know, it's a good thing for people to take vacations and decompress and all of that. So in theory I think older lawyers think that's really admirable that younger lawyers say they don't want to stay late or work on weekends. But that's in theory. And I think when there's actually a deadline approaching, there's a certain sort of . . .

45. Sue Strachan & Charles Wood, *New and Different Expectations: What Today's Law Grads Want from Their Careers, and How it Clashes with Older Lawyers' Perspectives*, MONT. LAW., Mar. 2009, at 5, 6 ("Several experienced attorneys that we talked to—and who are accustomed to long hours at work—see this as a lack of professional motivation. 'New attorneys just don't put in as much volume of work as we did,' said one older Montana attorney. 'When 5 or 5:30 comes, they're gone.'").

46. Melody Finnemore, *Meet the Millennials: Young Attorneys Prompt Need for Firms to Explore New Ways of Doing Business*, OR. ST. B. BULL., Nov. 2005, at 9 (quoting a Millennial lawyer opining that "[w]e're viewed as slackers and as though we don't want to work hard, especially by the Baby Boomer generation, which I don't think is a fair assessment . . . I think our generation is willing to work just as hard, but we're not driven by money. Our priorities are more about family or time to enjoy other activities.").

47. See RIKLEEN, *supra* note 17, at 145 ("Millennials understand that Boomers and Gen Xers pride themselves on their ability to withstand long hours at the office, but balk at the notion that the endurance these senior generations demonstrated throughout their careers must be a prerequisite to a young person's future success.").

48. *Id.* at 22 ("[W]e're all using the same term—'work/life balance'—the term has very different meanings depending on who is using it.").

not sure what the right word is . . . resentment is too strong. But sort of like resentment in that . . . that this person should be here, doing this.⁴⁹

As this quote illustrates, Millennial lawyers and their older supervisors may have problems communicating and meeting expectations if each incorrectly assumes they share the same notion of what work-life balance entails.⁵⁰

Different expectations when it comes to work-life balance can be particularly devastating when stated policies conflict with the realities of practice. While around 90% of law firms state they have policies permitting part-time work, only around 4% of lawyers use them.⁵¹ This difference may be due to employers undermining stated policies with inconsistent expectations, or adhering to the policies while stigmatizing the employees who take advantage of them.⁵² For instance, many of the lawyers I interviewed said they felt that, contrary to a stated employer policy, they were penalized for working fewer hours in order to attend to family duties, take a vacation, or just relax.⁵³ As one lawyer interviewee articulated:

49. Interview No. 12 (Jan. 30, 2015).

50. For instance, one of the Baby Boomer lawyers I interviewed indicated that the appropriate balance for a litigator was working long hours to get the job done when it was necessary, and then “normal business hours” of 9am-6pm the rest of the time. *Id.* This was in contrast to the expectations of Millennial litigators I spoke with, who often expected that if they put in long hours to complete a project for a period of time, it was then appropriate to come in late or leave early in the subsequent time in order to make that time back. *See, e.g.*, Interview No. 3 (Jan. 9, 2015).

51. Deborah L. Rhode, *From Platitudes to Priorities: Diversity and Gender Equity in Law Firms*, 24 *GEO. J. LEGAL ETHICS* 1041, 1056 (2011) (citing Paula Patton, *Women Lawyers, Their Status, Influence, and Retention in the Legal Profession*, 11 *WM. & MARY J. WOMEN & L.* 173, 189 (2005)).

52. *See* RIKLEEN, *supra* note 17, at 176 (discussing these issues).

53. *See, e.g.*, Interview No. 12 (Jan. 30, 2015) (noting associates at firms with family leave policies who take less time off are rewarded while associates who take advantage of the policies are punished); Interview No. 3 (Jan. 9, 2015) (discussing the setbacks for lawyers who decide to leave the workplace to grow a family); *see also* Shannon Achimalbe, *Work-Life Balance is NOT Work-Fun Balance*, *ABOVE THE LAW* (Apr. 29, 2015, 10:12 AM), <http://abovethelaw.com/2015/04/work-life-balance-is-not-work-fun-balance/> (“I sometimes wish that both employers and employees would be upfront about work-life balance, but I’d have better luck catching a fly with chopsticks. Because when money, careers, and business are at stake, both sides have to tell the other what they want to hear and hope that everything works out on its own.”).

[Y]ou have these firms and they say, “Oh, we have these great policies on family leave’ and this kind of stuff and everyone cheers, like, “Don’t we have a great family leave policy?” But when it comes right down to it, the partners are going to favor the associates who are available and willing to stay late and work on weekends. . . . Even though on paper the firms all say that they are not going to penalize people for taking advantage of their family friendly policies, we all know that of course they do because at the end of the day the people who bill the most hours are the ones who get rewarded.⁵⁴

Even when legal employers aren’t intentionally undermining their stated policies, as one Boomer lawyer at a mid-sized firm expressed, they sometimes feel they must “impose on people’s personal lives in ways . . . either intentionally or maybe even inadvertently, [that they] regret”⁵⁵ because of the nature of the practice. The conflicts between expectation and reality, stated policy and unstated feelings, can create an impossible maze for young lawyers to navigate.

Further, desire for work-life balance has often been understood as an unartfully articulated desire for a work-family balance, and more specifically, work-*children* balance.⁵⁶ As more professional women have entered the legal workforce since the 1970s, they have increasingly sought to blend their careers with child-rearing, and to thus “have it all.”⁵⁷ Therefore, the discussion about work-life balance generated a dichotomy—and even an antagonistic relationship—between work on the one hand, and child-rearing on the other. As one lawyer I interviewed stated, balancing work and raising children is “a huge part of the work-life balance issue.”⁵⁸ Due to the biology of reproduction and the continuing expectation among many that women are assumed to be the primary caregivers for young children,⁵⁹ work-life balance has historically been discussed as an

54. Interview No. 12 (Jan. 30, 2015).

55. Interview No. 10 (Jan. 23, 2015).

56. Melissa H. Weresh, *I’ll Start Walking Your Way, You Start Walking Mine: Sociological Perspectives on Professional Identity Development and Influence of Generational Differences*, 61 S.C. L. REV. 337, 364 (2009) (“For female attorneys, the conflict over time and familial responsibilities has been evident for years.”).

57. See RIKLEEN, *supra* note 17, at 172 (“Women in the workplace have long been the primary advocates for the development of policies that support better work-life integration.”).

58. Interview No. 16 (Feb. 9, 2015).

59. Cynthia Fuchs Epstein, *Women in the Legal Profession at the Turn of the Twenty-First Century: Assessing Glass Ceilings and Open Doors*, 49 U. KAN. L. REV. 733,

almost entirely *women's* issue.⁶⁰ While an increased focus on balance is undoubtedly positive for all lawyers, the fact that this discussion was primarily had by, and directed towards, women made it easier for the predominantly male legal profession to compartmentalize the issue as one that almost solely affected women, and to stigmatize women who desired work-life balance as “less available, less dependable, and less worthy of extensive mentoring” because of their family responsibilities.⁶¹

The Millennial conception of a work-life balance, however, challenges this perception in a number of ways. Millennials reject the cabining of the concept of work-life balance into a strict dichotomy between work on the one hand and family obligations on the other. As a group, they are much more likely to think that a variety of non-work pursuits can and should be prioritized as equally important as their professional careers.⁶² As one interviewee noted, Millennials feel that, “[m]y pursuits that make me a rounded person are as important as my professional pursuits.”⁶³ As a Millennial practicing at a mid-size firm agreed:

[T]he balance comes in where that same job does not prevent me from sleeping at night, it doesn't follow me out of the office to such an extent that it's always on my mind, on nights and weekends. I am able to commit to a physical

751 (2001) (“Thus, men are supposed to devote primary allegiance to their work and women are supposed to devote primary allegiance to their families, particularly with regard to child care.”).

60. See WORKING MOTHER RESEARCH INST., *MOTHERS AND DAUGHTERS: THE WORKING MOTHER GENERATIONS REPORT 7* (2014), http://www.wmmsurveys.com/Generations_Report.pdf (quoting Claudia Olivetti, an associate professor of economics at Boston University, stating “[i]n many professions, flexibility is another word for a mommy track.”); RIKLEEN, *supra* note 17, at 176 (“Women have borne the brunt of the work–family conflict for decades”); Claire Cain Miller, *The 24/7 Work Culture's Toll on Families and Gender Equality*, N.Y. TIMES (May 28, 2015), <http://www.nytimes.com/2015/05/31/upshot/the-24-7-work-cultures-toll-on-families-and-gender-equality.html> (quoting Robin Ely, a professor at Harvard Business School, stating that “[t]hese 24/7 work cultures lock gender inequality in place, because the work-family balance problem is recognized as primarily a woman's problem”).
61. Rhode, *supra* note 51, at 1048 (noting that almost three-quarters of female lawyers said their commitment to their career had been questioned upon the birth or adoption of a child, compared with only nine to fifteen percent of male lawyers who reported the same).
62. See RIKLEEN, *supra* note 17, at 179 (describing Millennials views that “maintaining friendships, exercising, and otherwise enjoying life are important and should not be sacrificed to work”).
63. Interview No. 1 (Jan. 8, 2015).

wellness regimen, be it going to yoga or sleeping in occasionally, eating healthfully, so I'm not driven to eating junk food because of a lack of time to grocery shop or because of stress⁶⁴

In my interviews with Millennials, they listed the following incredibly varied activities when discussing their desire for work-life balance: spending time with friends, yoga, community service, crafting, reading, skiing, hiking, hobbies, writing, spending time outside, volunteering, serving on non-profit boards, going to the gym, fly fishing, camping, spending time with family, fitness, and both domestic and international travel.⁶⁵ A majority of Millennials who take a sabbatical or other work deferral use the time off "to explore passions or volunteer."⁶⁶ As a Millennial working in a small firm stated, work-life balance was "basically, having the opportunity to pursue whatever is important to you that isn't your career, that isn't the practice of law."⁶⁷

The Millennials I spoke with were much less likely to describe work-life balance as primarily about balancing families with work, even when they had children of their own. In contrast, one Gen-X lawyer I interviewed joked about work-life balance for Millennials, stating "if you don't have kids, work-life balance . . . who cares?"⁶⁸ But Millennials without children adamantly rejected the notion that because they don't have children, they are not entitled to the same workplace accommodations or flexibility. As one Millennial noted about a former employer:

They were extremely conscientious about parenting it was a very parent-centric understanding of work-life balance. So for some people who weren't parents, we felt a little left behind. In terms of like, this implicit privileging of taking off time off with your family, rather than a little bit of suspicion if you wanted to take vacation, and it's just you wanting to take a few vacation days. Or being sick, versus taking a sick day because your kid is sick. I thought it was

64. Interview No. 3 (Jan. 9, 2015).

65. See, e.g., Interview No. 1 (Jan. 8, 2015); Interview No. 2 (Jan. 9, 2015); Interview No. 3 (Jan. 9, 2015); Interview No. 5 (Jan. 11, 2015); Interview No. 7 (Jan. 14, 2015); Interview No. 11 (Jan. 25, 2015).

66. Sylvia Ann Hewlett et al., *How Gen Y and Boomers Will Reshape Your Agenda*, HARV. BUS. REV., July–Aug. 2009, at 71, 73.

67. Interview No. 7 (Jan. 14, 2015).

68. Interview No. 16 (Feb. 9, 2015).

interesting, the younger staff felt like all these great benefits that you talk about don't have anything to do with us. That was definitely a generational divide.⁶⁹

Studies support this finding, suggesting that Millennials desire and expect that work-life balance policies should be extended to them, whether or not they have started families.⁷⁰

In contrast, when discussing what they wish they had more time for, most of the Gen-X and Boomer lawyers listed having more time for family commitments first, and then sleep or domestic duties (housecleaning and errands) second.⁷¹ Leisure activities, if discussed at all, were at the end of the list. While none of the Millennial lawyers interviewed for this project expressed a wish that they had more time for their current job, several of the Boomer and Gen-X lawyers did—some of them even listing work as the number one thing they wished they had more time for.⁷²

Moreover, among those Millennials that have children, both male and female Millennials are more likely to view raising a family as a gender-neutral activity. Twenty or even ten years ago, a story about a young lawyer who left the profession in order to support a spouse's career and spend more time with family would have almost certainly been a profile of a young female lawyer. A male Millennial lawyer, however, told almost exactly this story in his interview:

[Work-life balance] is important for me because I have two young kids and because I have a wife who has neither rigidity or flexibility [in her job], so it's become very important to me and it's one of the reasons I took this job . . . a lot of the times [people] think it's reducible [to] a gender issue . . . to me it's a conversation about the person you are with. If you chose to raise a family, who's going to step back? And anyone can win that—lose—that conversation.

69. Interview No. 17 (Feb. 9, 2015).

70. Twenge et al., *supra* note 15, at 1135–36 (“Our results indicate that the desire for leisure and a better work-life balance starts long before young workers have families, so policies should go beyond those aimed at parents needing time to share child care duties and Boomers looking to gradually enter retirement; these policies should extend to younger people who want leisure time to travel or spend with friends.”).

71. *See, e.g.*, Interview No. 10 (Jan. 23, 2015); Interview No. 12 (Jan. 30, 2015); Interview No. 16 (Feb. 9, 2015).

72. *See, e.g.*, Interview No. 12 (Jan. 30, 2015).

It's about making choices, and it doesn't have to be about immutable characteristics.⁷³

His story is no longer as unique as it once was. More Millennial men are assuming the support role traditionally assumed by women.⁷⁴ And even if they do not take on a primary caretaker role, Millennial men are still experiencing increased tension between balancing professional and family lives because their spouses are more likely to also have professional careers.⁷⁵ Perhaps sparked in part by their experiences watching their own Boomer-generation fathers' lack of time outside of work to spend with their families, male Millennials are eager to avoid the same pitfalls.⁷⁶ As one Millennial, quoted in the Oregon State Bar Bulletin, articulated, "I want to get home and spend time with my child and be as involved in her upbringing as I can, and I think a lot of male attorneys I work with feel that way, too. It's not that we think our dads did a poor job, it's just a cultural shift."⁷⁷ Studies document this shift, showing that working Millennial fathers both spend more time with their children than the current average time spent by all working fathers (4.3 hours per workday versus 3.0 hours per workday), and almost double the amount of time with their children than their age counterparts did in 1977 (4.3 hours per workday versus 2.4 hours per workday).⁷⁸

73. Interview No. 1 (Jan. 8, 2015).

74. U.S. CHAMBER OF COMMERCE FOUND., THE MILLENNIAL GENERATION RESEARCH REVIEW 16 (2012) (noting the number of stay-at-home dads has tripled in the last ten years).

75. Leslie Larkin Cooney, *Walking the Legal Tightrope: Solutions for Achieving a Balanced Life in Law*, 47 SAN DIEGO L. REV. 421, 451 (2010) (noting that Millennial men "are more likely to marry professional women and experience problems due to two professionals trying to meet the demands of the workplace with neither of them available to handle family concerns").

76. See Chanen, *supra* note 6, at 46 (quoting a Millennial law student who said he watched his parents "give almost every ounce of their beings to jobs" and then "still be subject to layoffs").

77. Finnemore, *supra* note 46, at 9; see also Ryan Park, *What Ruth Bader Ginsburg Taught Me About Being a Stay-At-Home Dad*, ATLANTIC (Jan. 8, 2015), <http://www.theatlantic.com/business/archive/2015/01/what-ruth-bader-ginsburg-taught-me-about-being-a-stay-at-home-dad/384289/> (recounting how a former Supreme Court clerk took time away from his career to be a full-time parent because, in his words, "My deepest fear is that, decades from now, I will look back at the heart of my life and realize I made the wrong choices in favor of work.").

78. Kelly Sakai, *New Study Shows Significant and Surprising Changes Among Men and Women at Work and at Home*, PRNEWswire (Mar. 26, 2009), <http://www.prnewswire.com/news-releases/new-study-shows-significant-and-surprising-changes-among-men-and-women-at-work-and-at-home-61949802.html>. Millennial mothers also report spending more time with their children than the average time spent by all

As more lawyers of both genders make these non-traditional choices, the chance that any particular approach will become stigmatized decreases.⁷⁹ Whereas more than half of women from previous generations had non-linear career paths, Millennials of both genders are increasingly likely to have such a non-linear path.⁸⁰ Even in heterosexual partnerships where both people work in demanding careers, there is a greater expectation among Millennials that both partners will share the burden of housework and childcare equally.⁸¹ There is evidence that this expectation is being met by Millennial fathers to a larger extent than by Boomer or Gen-X fathers. While the vast majority of both Boomer and Millennial working mothers agree that mothers and fathers should share equally in caring for their children, 10% more Millennial mothers (73%) than Boomer working mothers (63%) report being satisfied with their spouse or partner's actual contribution to childcare.⁸² And working Millennial mothers are 11% more likely to say they are satisfied with how at-home tasks are divided between them and their spouse or partner.⁸³

Expanding the concept of work-life balance to include men and women, parents and non-parents, who are all trying to balance the needs of work, family, and a wide range of pursuits and activities, has the potential to create greater gender equality in the legal workplace because it undermines the idea that the only lawyers that demand balance are women with children.⁸⁴ With Millennials of both genders

mothers (5.0 hours per workday versus 3.8 hours per workday), and more hours than their age counterparts did in 1977 (5.0 hours per workday versus 4.5 hours per workday). *Id.* These statistics also show, while controlling for age and stage-of-life factors, that Millennial parents of both genders are spending more time with their children. *See id.*

79. *Work-Life Balance*, *supra* note 27, at 67 (quoting a young female attorney who notes that, "Male partners and associates also take advantage of the firm's flex-time policy, which is important in preventing a stigma being attached to working flex-time.").
80. *See Cooney*, *supra* note 75, at 449.
81. *See FAMILIES AND WORK INST.*, *supra* note 7, at 15 (stating that 73% of Gen-Y women disagree with the statement that it is better for all concerned if the man earns the money and the woman takes care of the home and children. This is an 11% increase from Gen-X and Boomer reactions to the same statement, who only disagree with the statement 62% of the time).
82. *WORKING MOTHER RESEARCH INST.*, *supra* note 60, at 7–10.
83. *Id.* Although only 35% of Millennial mothers describe being satisfied with this aspect of their partnership, it is still better than the abysmal 24% of Boomer mothers who are satisfied. *Id.*
84. *Wald*, *supra* note 30, at 1124 ("[T]he billable hour fetish has combined forces with gender stereotypes regarding women lawyers' divided loyalties and commitment to

increasingly likely to demand work-life balance for reasons beyond parenting⁸⁵—and Millennial men increasingly likely to demand balance so they, too, can be involved parents—the conversation cannot be cast as “only a women’s issue,” but instead a concern shared by an entire generation of young lawyers.⁸⁶ This should help remove the stigma associated with demanding a more flexible schedule or fewer work hours because such requests will come from men and women, parents and non-parents.⁸⁷ (If anything, employers may actually view the female attorney who leaves the office at 6pm to pick up children in a more favorable light than the male attorney who insists that he leave at 6pm to attend his favorite spin class at the gym!) It seems likely that it will become increasingly difficult for legal employers to ignore demands for balance if the entirety of their young workforce is making them.⁸⁸

B. Millennials and the Desire for Rapid Advancement

For young lawyers entering the legal profession in previous years, the expectation was that they would have to “put in their time” before they would be allowed to advance up the ladder.⁸⁹ This advancement would not come quickly, as many firms have evolved partnership tracks that extend “nine, ten or even eleven years.”⁹⁰

spend significant hours away from the firm as wives and mothers, to make it more difficult for female attorneys to advance at large law firms.”)

85. See RIKLEEN, *supra* note 17, at 173 (noting that Millennials of both genders share the value of workplace flexibility).
86. See ELISABETH KELAN, *RIISING STARS: DEVELOPING MILLENNIAL WOMEN AS LEADERS* 156 (2012) (noting that while work-life balance has been traditionally viewed as a woman’s issue, Millennials of both genders are increasingly demanding such balance).
87. Joan C. Williams & Stephanie Bornstein, *The Evolution of “FReD”: Family Responsibilities Discrimination and Developments in the Law of Stereotyping and Implicit Bias*, 59 *HASTINGS L. J.* 1311, 1326–30 (2008) (discussing the negative assumptions made about women’s career goals and commitment once she seeks accommodations like maternity leave).
88. Twenge et al., *supra* note 15, at 1138 (noting that although the statistical differences between generations in their desire for more leisure time may be moderate, they may “become very noticeable to managers if 3 times as many young employees place a very high value on leisure”).
89. Daicoff, *supra* note 5, at 18 (expressing frustration that Millennials “want[ed] the benefits of the profession without paying their dues”).
90. Matt Shinnors, *How to Become a Law Firm Partner*, A.B.A. SEC. LITIG. YOUNG ADVOCATES COMM. (June 7, 2012), <http://apps.americanbar.org/litigation/committees/youngadvocate/email/spring2012/spring2012-0612-how-become-law-firm-partner.html>.

Millennial lawyers, however, might be less willing than generations before them to wait a decade or more to move up the chain of command at their firms or organizations.⁹¹ In general, Millennials rank the ability to rapidly advance through the ranks of their profession as more important and desirable than previous generations.⁹² Employers have reported that some Millennials expect promotions as quickly as six months into a new position,⁹³ and studies have shown that, on average, Millennials expect only 15.1 months to elapse between starting a new position and a promotion.⁹⁴ One older attorney interviewed for a story in *Montana Lawyer* complained that Millennial lawyers “expect to become partners in three years whether or not they are producing enough income for the firm.”⁹⁵ Millennials chafe against these complaints, arguing that their merit or contributions, as opposed to the number of years they have worked, should determine how quickly they can advance.⁹⁶

Importantly, studies show that Millennial women, if given the opportunity, are just as eager as men for professional advancement. The popular book by Facebook COO Sheryl Sandberg entreated young women to “lean in” to their careers, and not to scale back their work commitments before they absolutely have to in order to cater to the needs of families.⁹⁷ Millennials are either heeding this advice, or they did not need it in the first place—a recent IBM study shows that among Millennials, women are just as likely as men to want jobs with greater responsibility, whether or not they already have children.⁹⁸ In the almost 30 years that the IBM study has been tracking these

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91. Chanen, *supra* note 6, at 45 (reporting a feeling among law firm partners that today’s young lawyers are not willing to “invest the time or effort required to reap the rewards of law firm life”); Daicoff, *supra* note 5, at 20 (noting that Millennials may be more likely to challenge traditional processes and rules, which leads them to be unsatisfied simply “paying their dues”).
 92. Eddy S. W. Ng, Linda Schweitzer & Sean T. Lyons, *New Generation, Great Expectations: A Field Study of the Millennial Generation*, 25 J. BUS. PSYCHOL. 281, 286 (2010) (noting that “Millennials rated opportunities for advancement as the most desirable work-related attribute . . .”).
 93. *Id.* at 282.
 94. *Id.* at 285. Further, more than two-thirds expect to be promoted within 18 months of starting their first job. *Id.*
 95. Strachan & Wood, *supra* note 45, at 32.
 96. Scott Flander, *Millennial Magnets*, HUM. RESOURCE EXECUTIVE ONLINE (Apr. 1, 2008), <http://www.hreonline.com/HRE/view/story.jhtml?id=84159035> (noting that Millennials may think the idea of “pay[ing] one’s dues” is old-fashioned).
 97. SHERYL SANDBERG, LEAN IN: WOMEN, WORK, AND THE WILL TO LEAD 23–24, 95 (2013).
 98. Sakai, *supra* note 78.

trends, this is the first year that men and women express such an equal desire for advancement.⁹⁹

This desire for more rapid advancement is in direct contradiction to life-as-usual at most legal jobs, which, in the words of one Millennial, requires “years—years and years” to “bump from associate to partner.”¹⁰⁰ Expressing a frustration that she believes many young lawyers feel, one Millennial woman characterized it as, “[y]ou can be an associate at this firm, or an associate at this firm—but you will never be more than an associate.”¹⁰¹ The one Millennial I spoke with who, as a result of the structure of his firm, would have the opportunity to advance within four or five years stated that, “[b]eing able to advance more rapidly than the normal thing is absolutely one of the things I like about my job.”¹⁰² But most of the Millennial lawyers I spoke with expressed feelings of frustration that there were no opportunities to move into higher positions for the first decade of their careers, the availability of which would help them feel as if “they were getting somewhere.”¹⁰³ As one Millennial lawyer at a firm said:

So the idea [of having] a job where I could advance, you know, every year and a half, every two years, or three years even, is really appealing. Because I think when you are a young professional, bumps feel like a little bit of a vote of confidence and they give you something to stand on and then reach higher. It can be confidence-boosting.¹⁰⁴

Indeed, companies which have adapted to this preference by offering opportunities for more rapid advancement are particularly adept at attracting and retaining Millennial workers.¹⁰⁵

The sometimes decades-long period before an opportunity for advancement comes along in many legal jobs is all the more problematic when considering that this is the same ten-year time

99. *Id.*

100. Interview No. 3 (Jan. 9, 2015).

101. Interview No. 2 (Jan. 9, 2015). This idea was echoed in other interviews. Another Millennial noted that “[advancement] seems to be so regimented across the board. If I apply to a law firm job, I’m not thinking about opportunities for advancement because my assumption is that it’s just going to be lockstep with the rest of them.” Interview No. 5 (Jan. 11, 2015).

102. Interview No. 7 (Jan. 14, 2015).

103. Interview No. 3 (Jan. 9, 2015); *see also supra* note 101 and accompanying text.

104. Interview No. 3 (Jan. 9, 2015).

105. Flander, *supra* note 96 (noting that companies that ranked high in a survey of young people were those that gave promotions “to those who best deserve them”).

frame in which most young attorneys are also considering starting families.¹⁰⁶ Older female attorneys may warn younger female attorneys that, in order to make partner, family sacrifices must be made.¹⁰⁷ And the message is getting across, with women reporting a feeling that “any reduction in hours or availability would jeopardize their careers.”¹⁰⁸ This feeling is borne out by the evidence, which shows that even one year out of the workforce can reduce the chance of making partner in a firm by a third.¹⁰⁹

Many women I interviewed pointed to this unfortunate convergence of strict professional timeline and reproductive capacity as one of the primary reasons that it was difficult for women to get ahead in the legal profession. It was one of the reasons they liked the idea of being able to progress more rapidly through the ranks. As one Millennial noted:

I think that [creating] something intermediate between associate and partner might have [the] effect of retaining women in the law firms . . . Having an intermediate title—I don’t know what it would be “senior associate” or a new title entirely could give the women, or men, or whoever is leaving the workplace to grow a family in their early or mid-thirties . . . already having achieved an extra step that might encourage them to go back to the firm after they have done the kids, and are ready to return to the workforce . . . I feel like . . . [i]t would improve retention by firms because it just would . . . help people feel like they were getting somewhere, and if they do take time off to have kids to feel like they weren’t starting again at step one.¹¹⁰

As this quote demonstrates, the Millennials’ desire for rapid advancement could therefore have the unintended but happy consequence of easing a traditional point of tension for female

106. Katelyn Brack, Note, *American Work-Life Balance: Overcoming Family Responsibilities Discrimination in the Workplace*, 65 RUTGERS L. REV. 543, 544–45 (2013) (“In fields such as law, women face societal pressures to prove themselves at early stages in their careers, coincidentally during their biological childrearing years.”).

107. *Work-Life Balance*, *supra* note 27, at 65 (quoting a senior female attorney who cautions that “[i]f you are on a partner track, then cutting back your work schedule to stay home with children may not be a smart career move.”).

108. Rhode, *supra* note 51, at 1056.

109. *Id.*

110. Interview No. 3 (Jan. 9, 2015).

lawyers by encouraging legal employers to provide young lawyers more opportunities for advancement earlier in their careers. If attorneys were either given the opportunity to move up more quickly by showing exceptional merit, or were provided with intermediate professional goals that could be attained more rapidly, female attorneys would not be under as much pressure to devote themselves completely to their careers during the same approximately ten-year period in which they were likely to have children.¹¹¹

C. Millennials and Technology

Perhaps the characteristic Millennials are most readily identified with is their tech savvy.¹¹² Millennials grew up using technology to an extent heretofore unknown and, as a result, their ability to interact with and utilize technology for a wide range of professional and personal tasks is unparalleled.¹¹³ Millennials, having come of age already used to toggling between many types of technology, are excellent at multi-tasking.¹¹⁴ Some say that Millennials are so comfortable with technology that, for them, technology is less something they *use*, and more a part of who they *are*—their devices simply an extension of themselves in the digital world.¹¹⁵ Every lawyer I spoke with agreed that, in general, younger lawyers were

111. *But see* Wald, *supra* note 30, at 1131 (discussing potential drawbacks for gender equality in the development of alternate lawyering tracks or positions within law firms).

112. Hershatter & Epstein, *supra* note 36, at 212 (“Perhaps the most apparent difference between Millennials and other generations in the workplace is their distinctive relationship with technology.”); PEW RESEARCH CTR, *supra* note 15, at 5 (noting that 24% of Millennials cite technology use as what makes their generation unique, a higher percentage than any other characteristic).

113. *See* Daicoff, *supra* note 5, at 18 (noting that the Millennial generation use technology much more frequently than those from previous generations); Hershatter & Epstein, *supra* note 36, at 212 (noting that because Millennials grew up with technology, they are often referred to as “digital natives”). One interviewee noted that non-Millennials ability to use technology was “a joke” and that her Baby Boomer bosses “can’t do anything” with technology. Another described herself as “unpaid IT staff.”

114. Steven K. Berenson, *Educating Millennial Law Students for Public Obligation*, 1 CHARLOTTE L. REV. 51, 53 (2008) (describing how Millennials grew up with “laptops, cell phones, and pagers”).

115. Hershatter & Epstein, *supra* note 36, at 212–13 (“Millennials who have been hard wired by technology and for whom it is integral to their academic, social, and personal lives, don’t think about adaptation at all; technology for them is a sixth sense, as a way of knowing and interacting with the world.”).

more adept at utilizing a wide range of technology in the workplace than lawyers from previous generations.¹¹⁶

In the context of the modern law firm, however, technology can be a double-edged sword—particularly for women.¹¹⁷ While the flexibility that technology affords modern lawyers enables them to accommodate personal commitments by working from home, working non-traditional hours, or even participating remotely in firm or client meetings, it also creates an ever-present *capacity* to work, which may lead some lawyers to feel incapable of “unplugging”¹¹⁸ because of expectations that they should always be reachable by their employers. The Millennial lawyers I interviewed noted this expectation, stating that, even on the weekend, there was “an implied assumption that I would see [an email] and respond to it relatively quickly”¹¹⁹ and complaining that technology “allows employers to be of the mindset that work is never over.”¹²⁰ Beyond simply a mindset, some firms enshrine the idea of ever-present accessibility in their stated policies, such as the policy of “C.B.A.” for associates—“Check Blackberry Always.”¹²¹

If the use of technology creates a workplace in which young lawyers are constantly accessible to their supervisors, it might do as

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116. See, e.g., Interview No. 16 (Feb. 9, 2015). Further, many of the Millennial and non-Millennial lawyers interviewed felt that ease with technology was the biggest difference between the generations, describing it as “huge,” “important” and “absolutely a generational divide.” See, e.g., Interview No. 5. (Jan. 11, 2015).
 117. Epstein, *supra* note 59, at 736 (“[T]he speed-ups in communication created by new technologies, create obstacles for many ambitious women lawyers.”).
 118. Becky Beaupre Gillespie & Hollee Schwartz Temple, *Mom Makes it Work*, A.B.A. J., Oct. 2009, at 32–33 (“The technology becomes punishing because it prevents lawyers from having any real downtime or escape[.]” (quoting Deborah Epstein Henry, founder of Flex-Time Lawyers)); Robert C. “TJ” Thurston, *The Technology Threat to Work/Life Balance*, GP SOLO, Sept./Oct. 2012, at 37, 38 (2012) (“Perhaps the most insidious effect of better technology is that it allows lawyers to work virtually and at any time of day or night. This is fantastic, especially to the solo attorney who is already cramped for time, but it is awful if you have any kind of life or responsibilities outside of work—spouse, significant other, children, school, charity work, hobby, or that trip to Europe you keep promising yourself you’ll take.”).
 119. Interview No. 11 (Jan. 25, 2015).
 120. Interview No. 5 (Jan. 11, 2015).
 121. Elie Mystal, *Quinn Emanuel Believes in ‘C.B.A.’ (Check BlackBerry Always)*, ABOVE THE LAW (Oct. 16, 2009 5:57 PM), <http://abovethelaw.com/2009/10/quinn-emanuel-believes-in-c-b-a-check-blackberry-always/> (posting an email from a Quinn Emanuel partner which exhorts associates to check their email every hour unless they are “asleep, in court or in a tunnel”).

much to hinder their ability to find work-life balance as it could do to help it.¹²² As one Millennial lawyer I interviewed noted:

[I]t means on a Saturday when something needs to get done but you aren't in the office [your employer might think] there is no excuse for you not to answer the email and do the project and I think that for some people, myself included, [technology] can make it hard to create boundaries and say no. It's 8 o'clock on a Saturday night, I'm not responding to this email.¹²³

Many lawyers I spoke with, regardless of generation, were concerned about the creep of work technology into personal space.

Although all the participants expressed concerns about the appropriate use of technology, the Millennials I spoke with also articulated a counter-narrative: that because they grew up with technology, they were actually better at confining work-related technology to work hours. This, by itself, is not necessarily surprising. Millennials, having grown up with technology, are often able to use technology in ways that increases their efficiency, thereby reducing the total number of hours they need to work to complete a task.¹²⁴ But beyond this technological efficiency, Millennials also specifically expressed a feeling that they were better able to “unplug” than the older lawyers they worked with, some even claiming that they “have no problem whatsoever unplugging” from technology that connects them remotely to their workplace.¹²⁵ This may be in part because Millennials have a better sense of the downside of allowing work technology to invade their personal lives.¹²⁶ A career services professional at a law school noted during his interview that

122. Cooney, *supra* note 75, at 452 (“[T]echnology can strain the balance Millennials crave because it prevents lawyers from having and real downtime or escape because they are all on call twenty-four hours per day, seven days per week via their Blackberries.”).

123. Interview No. 2 (Jan. 9, 2015).

124. *See* Cooney, *supra* note 75, at 452 (discussing how Millennials comfort with technology allows them to use this technology to be more efficient in their practice).

125. Interview No. 7 (Jan. 14, 2015). This ability to unplug from work technology with ease was also expressed by lawyers in certain government jobs, regardless of their age. These respondents credited the expectations of their employers as the reason that they were able to maintain this boundary, as opposed to any personal characteristic they possessed.

126. *See* RIKLEEN, *supra* note 17, at 155 (“Millennials understand that unchecked technology add extraordinary stress to their work demands.”).

Millennial law students increasingly value “unplugging” entirely from work when out of the office.¹²⁷ According to him:

[Millennials] do not view the ability to work from home, to work remotely, work on the road, as a function of work-life balance, they view it as sort of abuse of work-life balance . . . maybe they are more aware of the potential abuse of technology than other people, so they don't fall into the trap of thinking that flexibility equals more balance.¹²⁸

This supports the general idea that Millennials don't want technology to destroy the distinction between home and work in a manner that undermines their time at home.¹²⁹

Millennials may also be more adept at cutting off technology because, as one Millennial aptly noted, lawyers who didn't grow up having access to information twenty-four hours a day were just not used to shutting it down. As she said:

For the people 20-30 years my senior . . . [who] are still on top of their game, I think those people are probably even more compulsive than I am when it comes to checking their phones or their blackberries. Just because like whatever they used to do, before those phone[s] existed, like check with their secretaries to see if there were incoming calls? They couldn't do that twenty-four hours a day As soon as the [lawyers] who want access to information know they can have it, they'll go for it, they'll get it as much as they can.¹³⁰

And another Millennial noted that, “younger [lawyers] are more comfortable setting up boundaries between personal and professional life.”¹³¹ As an example, a Millennial lawyer I spoke with described how:

I just don't respond to emails if I don't want to. If I get an email saying that I need to do something, or “call me by 11 o'clock” on a Sunday, and I didn't already have a call

127. Interview No. 1 (Jan. 8, 2015).

128. *Id.*

129. *Cf.* Strachan & Wood, *supra* note 45, at 29 (“A surprise to us, law students said . . . they prefer to work in an office, not at home.”).

130. Interview No. 3 (Jan. 9, 2015).

131. *Id.*

scheduled for 11 o'clock on Sunday, than I just won't return the email if I have plans already.¹³²

This ability to let emails go unanswered was common among the Millennials I spoke with, but was not articulated as often in the interviews with older lawyers. One Boomer described his “reflexive reaction to checking emails when I know they are coming.”¹³³ And Millennials remarked that older partners will send emails from “wherever, whenever.”¹³⁴

The overall narrative that emerged from Boomer lawyers was one in which technology has only made the legal profession “worse” and “more intense,” as they struggle to keep technology from imposing on their personal time—in part because of their belief that you should “respon[d] right away” to work emails.¹³⁵ For their part, Millennials were frustrated when older lawyers couldn't see the ways that technology could help, instead of hinder, workplace flexibility. As one Millennial noted:

I have worked in very luddite fields of the law I worked at this international NGO and I had to change my hours even though there is technology available that would allow us to not have to change our hours, because we can be available at any time from any place. And there was a lot of heated debate about this. And they just used technology in the most useless way. I think it's completely generational. It was insane. Any time we tried to upgrade a system, there was so much resistance. To really basic stuff. So much fear.¹³⁶

Millennials, as a group, are simply less concerned about the impact of technology on the practice of law, and more likely to see it as an untapped resource that could do much to improve work-life balance.¹³⁷

132. Interview No. 5 (Jan. 11, 2015).

133. Interview No. 10 (Jan. 23, 2015).

134. Interview No. 11 (Jan. 25, 2015).

135. *See, e.g.*, Interview No. 10 (Jan. 23, 2015); Interview No. 12 (Jan. 30, 2015).

136. Interview No. 17 (Feb. 9, 2015).

137. Finnemore, *supra* note 46, at 14 (citing an Oregon State Bar Survey which found Millennials were less concerned about the impact of technology on the practice of law than their older counterparts); *see also* RIKLEEN, *supra* note 17, at 152 (describing how Millennials thought “technology should work for us, not against us; and using technology to work smarter should be viewed positively.”).

Counterintuitively, one reason for this difference might be that Millennials have mastered the ability to adapt technology-based strategies to prevent technology from eroding the boundaries between their work and personal lives. For instance, there are anecdotes about associates using their Blackberries instead of their work computers to send email, as a way to *pretend* they have already left the office for the day—unmistakably a use of technology to promote a boundary between work and home life.¹³⁸ Many of the Millennials I interviewed offered other ways they use technology to actually reinforce the boundaries between work and home life. For instance, one Millennial working at a firm disabled the auto-refresh feature on her smart phone only for her work email, which meant she engaged with work emails during non-work times only when she affirmatively chose to.¹³⁹ Another offered up a way to have the email system at her workplace hold emails to be automatically sent at a later time, so that, even if she was responding during non-work hours, her supervisors wouldn't come to expect responses at this time.¹⁴⁰ Millennials, as a group, did not seem to allow work to infiltrate non-work time, via technology, nearly as often as might be expected. As one Millennial stated, “[w]hen I’m in my home, I’m usually relaxing, thinking about my plans for the weekend, or whatever, just having down time.”¹⁴¹ Thus, Millennials ability to more adeptly utilize technology seems to extend to the ability to make their technology work in the service of their own work-life balance goals, as opposed to letting technology dictate their schedules.¹⁴²

If the 24/7 availability that technology facilitates is bad for work-life balance, and particularly difficult for women who are juggling professional and personal roles,¹⁴³ then the Millennials’ ability to ignore, confine and utilize work technology to better police the boundary between work and personal lives could be an enormously useful skill for Millennial women. Moreover, if Millennials of both genders use their technology to enforce a stricter delineation between

138. Chanen, *supra* note 6, at 48.

139. Interview No. 3 (Jan. 9, 2015).

140. Interview No. 5 (Jan. 11, 2015).

141. Interview No. 3 (Jan. 9, 2015).

142. See, e.g., RIKLEEN, *supra* note 17, at 154 (noting that Millennials the author surveyed “particularly rejected the way in which senior generations viewed technology as an opportunity for around-the-clock accessibility rather than as a way for work to be done more effectively and efficiently”).

143. See generally Epstein, *supra* note 59, at 751 (noting that technology has created an expectation that legal work is “24/7” and the negative effect this can have on women in particular because they are still expected to take on primary caregiver roles).

work and non-work time, it could have the effect of promoting those boundaries in the profession in general.

IV. WOMEN IN THE LEGAL PROFESSION

It is no secret that it is difficult to be a woman in the legal profession.¹⁴⁴ Even though women have been graduating from law schools in equal numbers to men for approximately twenty years, and are hired in approximately equal numbers into law firm associate positions,¹⁴⁵ women attorneys have yet to achieve equality in promotions, compensation, or appointments to the bench.¹⁴⁶

Because of the difficulties facing women in the legal profession, it is not surprising that retaining women has been a particular problem for legal employers. Despite increased attention on the attrition rate of women lawyers in the past several years, little significant progress has been made.¹⁴⁷ Attrition rates for female associates in law firms are almost double those of male associates¹⁴⁸—and women of color have the highest level of attrition from law firms of any group.¹⁴⁹

Many commentators point to poor work-life balance as the primary reason why women are leaving the profession.¹⁵⁰ Considering the huge billable hour requirements in place at most firms, this is not surprising.¹⁵¹ And unlike some other professions, the legal profession

144. See, e.g., LAUREN STILLER RIKLEEN, *ENDING THE GAUNTLET: REMOVING BARRIERS TO WOMEN'S SUCCESS IN THE LAW* (2006); Hannah Brenner, *Expanding the Pathways to Gender Equality in the Legal Profession*, 17 *LEGAL ETHICS* 261 (2014).

145. Nancy Gertner, *Feminism, Stalled: Thoughts on the Leaky Pipeline*, 2012 *MICH. ST. L. REV.* 1473, 1474 (2012).

146. See generally Fiona Kay & Elizabeth Gorman, *Women in the Legal Profession*, 4 *ANNU. REV. LAW. SOC. SCI.* 299 (2008).

147. Cooney, *supra* note 75, at 421–22 (noting that despite the attention paid to the status of women in the legal profession, progress in the last twenty years to increase the representation of women in the profession has been small).

148. Jason P. Nance & Paul E. Madsen, *An Empirical Analysis of Diversity in the Legal Profession*, 47 *CONN. L. REV.* 271, 284–85 (2014).

149. Roberta D. Liebenberg, *Has Women Lawyers' Progress Stalled?*, *MS. JD* (May 28, 2013), <http://ms-jd.org/blog/article/has-women-lawyers-progress-stalled>.

150. Cooney, *supra* note 75, at 422 (“[M]any women now leave the practice of law because they find they cannot achieve a satisfactory quality of life within its strictures”); MONA HARRINGTON & HELEN HSI, *MIT WORKPLACE CTR., WOMEN LAWYERS AND OBSTACLES TO LEADERSHIP: A REPORT OF MIT WORKPLACE CENTER SURVEYS ON COMPARATIVE CAREER DECISIONS AND ATTRITION RATES OF WOMEN AND MEN IN MASSACHUSETTS LAW FIRMS* 12 (2007), http://web.mit.edu/workplacecenter/docs/law-report_4-07.pdf (stating that the most cited reason for female attorneys leaving law practice was the “difficulty integrating work and family/personal life”).

151. Cooney, *supra* note 75, at 433 (calculating that the current average of 2,200 billable hours a year per associate in a law firm translates to working “twelve hours a day, five

has been ineffective at changing to accommodate work-life balance concerns.¹⁵²

Even when women continue to practice law, advancement to the highest levels of the profession has proven elusive for many. Men have been found to be between two and five times more likely to make partner at their firm, depending on the study.¹⁵³ As of 2011, women only composed 19.5% of partners in law firms,¹⁵⁴ even while they compose 45% of associates.¹⁵⁵ For those women who make partner in their firms, consistent differences in compensation mean that they are often not being rewarded as richly as their male peers.¹⁵⁶

In order to adapt to a profession that is often unfriendly to their needs, many female attorneys have felt forced to choose between their professional and personal lives. For instance, one senior female lawyer said: “You can’t have it all. I couldn’t have it all. I made my choice. You have to make your choice.”¹⁵⁷ Even those older attorneys who had attempted to balance family and professional life had not felt empowered to ask their employers to accommodate these dual roles. Another female attorney participant on a panel on work-life balance issues explained the obstacles older attorneys faced:

My approach to this challenge was “old school,” having started my career in the years when women were just breaking into the professional work force in significant numbers. If women expected to have the same opportunities as men, I believed, we had to work as hard or harder. I always strived to uphold my end of the professional bargain without asking my employer to give any special

days a week, plus seven hours on Saturdays twice per month, with a total of three weeks of vacation per year”).

152. *Id.* at 438 (identifying healthcare and accounting as fields that have been more responsive to the effect of work-life balance issues on women).

153. Rhode, *supra* note 51, at 1043.

154. Nance & Madsen, *supra* note 148, at 283. Further, only 15% of women were equity partners in private law firms, and only 5% were managing partners at large law firms. *Id.*

155. Liebenberg, *supra* note 149.

156. *Id.* (“The National Association of Women Lawyers has reported that women equity partners receive only 75 percent of the amount of the origination credit ascribed to their male colleagues, and women partners represent only 16 percent of the partners credited for at least \$500,000 in business.”).

157. Joan C. Williams, Keynote Address, *The Politics of Time in the Legal Profession*, 4 U. ST. THOMAS L.J. 379, 397 (2007) (quoting CYNTHIA FUCHS EPSTEIN ET AL., *THE PART-TIME PARADOX* 66 (1999)).

consideration to issues at home . . . I know that I put my work ahead of my family on many occasions.¹⁵⁸

Considering the realities of their own experience, many older lawyers are adamant that it is only through this “work harder and don’t ask for too much” approach that women will be able to succeed.¹⁵⁹ While this approach has not resulted in complete gender parity or a legal workplace that is always sensitive to the needs of women, there is no doubt that substantial progress has been made since women first entered the profession in significant numbers in the 1970’s.¹⁶⁰ Thus, older female lawyers may also feel that their work to advance women in the legal profession has not been adequately appreciated by younger female attorneys.¹⁶¹

For their part, younger female attorneys are often hyper-aware of not wanting to replicate the work-centric approach of their older counterparts. As one Millennial noted:

[At] another office . . . also run by a woman maybe two generations my senior, and there was no divide between work and life. And I think she came out of generation, especially for women, where there wasn’t supposed to be a divide, you were just supposed to be working all the time just to show you were working all the time. And that was really oppressive. It was just constant.¹⁶²

These differences contribute to a “gendered generational divide with deep roots” in which older female attorneys feel that younger female attorneys are not committed to doing what is necessary to succeed, and younger female attorneys feel frustrated that their older counterparts won’t help them make the workplace more female-friendly as opposed to simply accepting the status quo.¹⁶³

158. *Work-Life Balance*, *supra* note 27, at 65.

159. See RIKLEEN, *supra* note 17, at 22–23 (describing “conversations in which older female colleagues insistently advised younger women that, to succeed, they must endure the same difficult path of long hours at the office and significant familial sacrifices at home.”).

160. Liebenberg, *supra* note 149 (noting that women now make up one-third of the U.S. Supreme Court, thirty percent of federal and state appellate judges, and more than twenty percent of law school deans).

161. RIKLEEN, *supra* note 17, at 22–23 (noting that Millennial lawyers felt that “senior women colleagues seemed angry at Millennials for not sufficiently appreciating the sacrifices they had to make to succeed in the workplace.”).

162. Interview No. 17 (Feb. 9, 2015).

163. RIKLEEN, *supra* note 17, at 21–23.

V. GENERATION-WIDE CHANGE

Margaret Mead was famously quoted as saying, “Never doubt that a small group of thoughtful, committed citizens can change the world; indeed, it’s the only thing that ever has.”¹⁶⁴ Surely the first part of that assertion has held true in countless historical examples. But do we honestly believe that the *only* thing that has ever changed the world is this small group of citizens? Certainly not, as there are countless examples of cultural shifts that occur in entire generations that also “change the world.”¹⁶⁵

Other authors have explored this concept of generation-wide change, both generally and how it specifically applies to the Millennial generation.¹⁶⁶ And there are many persuasive reasons to believe that the Millennial generation will have a good chance of creating society-wide change. For one, they are the largest generation to enter the US workforce—ever—at approximately 80 million strong.¹⁶⁷ Sheer numbers will at least partially ensure that the preferences of the Millennial generation will be taken into account in workplace policies moving forward.¹⁶⁸ Further, they enter the workforce at precisely the same time that many Baby Boomers—up until this point the largest generation in American history—are considering retirement.¹⁶⁹ The exodus of the Boomer generation has the potential to create a vacuum at the top of firms and organizations that will enable those below them to advance more rapidly than they might otherwise.¹⁷⁰ As a result of these trends, commentators have

164. NANCY C. LUTKEHAUS, *MARGARET MEAD: THE MAKING OF AN AMERICAN ICON* 261 (2008).

165. Indeed, even recent American history has many examples, from the Baby Boomer generation, who are credited with leading the civil rights and anti-war movements in the 1960s and 1970s, and the G.I Generation, also called the “Greatest Generation,” who fought the Second World War and fueled an age of prosperity and American accomplishment.

166. See Amelia Uelmen, “*Millennial Momentum*” for *Revising the Rhetoric of Lawyers’ Relationships and Roles*, 9 U. ST. THOMAS L. J. 446 (2011).

167. PAUL TAYLOR, *THE NEXT AMERICA: BOOMERS, MILLENNIALS, AND THE LOOMING GENERATIONAL SHOWDOWN* 22 (2014) (the second biggest generation, the Baby Boomers, have about 76 million members).

168. McClellan, *supra* note 14, at 260–61 (“[Millennials] sheer numbers will make a difference in the workplace, including legal practice.”). Compare this effect to the effect of Generation X, who “as a result of its small size” needed to adapt to the culture of the workplace “as a matter of practical necessity.” RIKLEEN, *supra* note 17, at 10.

169. TAYLOR, *supra* note 20, at 22.

170. Leslie Larkin Cooney, *Giving Millennials a Leg-Up: How to Avoid the “If I Knew Then What I Know Now” Syndrome*, 96 KY. L.J. 505, 523 (2007) (“In 2011, when the

noted that over the next twenty-five years, “the Millennials will have a high degree of choice in selecting the organizations for which they want to work, based on the kind of working conditions, opportunities, and flexibility employers can offer.”¹⁷¹

Further, Millennials’ unique combination of “the idealism of youth and the sheltering protection they have been afforded” creates an expectation on the part of Millennials that “they can and should be change agents on a grand scale.”¹⁷² Millennials “are America’s most stubborn optimists” despite the challenges that they have faced and will continue to face.¹⁷³ This belief in their own power will certainly help them push through changes to the American workplace, including the legal workplace.

While the legal profession is widely recognized as resistant to change,¹⁷⁴ law firms and other legal employers are starting to recognize that change can and must happen if they want to retain the best young lawyers.¹⁷⁵ The shift is due to the fact that Millennials are all too willing to move on to other opportunities if they feel that their needs are not met by their employer.¹⁷⁶ With some firms losing up to 30% of their lawyers each year, mostly due to lawyers leaving to seek opportunities for advancement and better work-life balance,¹⁷⁷ law

first of the baby boomers turn sixty-five and began to retire, available jobs will outnumber available workers by 4.3 million; a worker shortage will present many challenges, and the business training community is recognizing the need to groom today’s Millennial workforce to assume future leadership roles.”).

171. Ng, Schweitzer & Lyons, *supra* note 92, at 282.

172. Hershatter & Epstein, *supra* note 36, at 221.

173. TAYLOR, *supra* note 20, at 20.

174. Strachan & Wood, *supra* note 45, at 33 (quoting a law student who notes that “the legal profession is highly resistant to change”); McClellan, *supra* note 14, at 281 (“Although law firms and agencies may be the last to adopt the more interactive models emerging in the corporate world, change will come as more Millennial generation lawyers enter the workforce and rise to positions of power and responsibility.”).

175. Chanen, *supra* note 6, at 47 (quoting Brad Brian, chair of the A.B.A. section entitled “Raise the Bar” who states, “One of the things we have to confront is, how will lawyers accommodate the desires and needs and interest of young lawyers? If law firms do not adjust to that and accommodate those needs, I think we will lose people.”); *see also* McClellan, *supra* note 14, at 256 (quoting a broadcast of “60 Minutes” concerning how corporate America is hiring consultants to specifically teach companies how to appeal to the Millennial generation).

176. Anthony Portuesi, *Gen Y in the Workplace*, SPARXOO.COM, (Mar. 31, 2009), <http://www.sparxoo.com/2009/03/31/gen-y-in-the-workplace/> (“If an employer leaves no room for compromise, Gen-Y has no problem packing up and searching for a position that will fill this desire.”).

177. *See* Martha Neil, *Survey: Associate Loyalty at All-Time Low*, A.B.A. J. (Nov. 5, 2007, 8:37 PM), http://www.abajournal.com/news/article/survey_associate_loyalty_at_all_ti

firms are losing a lot of money as they incur unnecessary costs associated with recruiting and training new lawyers.¹⁷⁸ And retaining Millennials in the workplace may not be as simple as offering increased compensation, because many Millennials are not willing to give up a balanced and multi-faceted life even for a fat law firm salary.¹⁷⁹ Thus, legal employers must recognize that increasing salaries or bonus incentives will not solve the associate attrition problem.¹⁸⁰

Moreover, some legal employers have recognized that, while it may be Millennials who are pushing for changes in the workplace, the implementation of such changes will benefit everyone.¹⁸¹ In some areas, such as a desire for a better work-life balance, the difference between Millennials and the generations before them might not be in what they view as the ideal workplace, but instead in the “confidence and conviction” to demand such a workplace from their employers.¹⁸² Millennials are more likely to “demand balance that Boomers and Gen Xers waited twenty years or more to request.”¹⁸³ As one Boomer described:

There’s also sort of this weird pride thing that older lawyers have, that, you know, “I used to work all these hours” and “I remember when my kids were born, I was in trial and I didn’t even find out until four days later when I called home!” And younger lawyers are like, that’s sad and ridiculous. But there is a certain weird sort of pride. Even

me_low (chronicling the trend of young lawyers making lateral moves seeking firms that will accommodate their preferences).

178. See, e.g., JOANNE G. SUJANSKY & JAN FERRI-REED, KEEPING THE MILLENNIALS: WHY COMPANIES ARE LOSING BILLION IN TURNOVER TO THIS GENERATION—AND WHAT TO DO ABOUT IT 4 (2009) (noting that “[t]urnover costs can easily range from 50 to 150 percent of an employee’s salary.”). Other professions, such as accounting, have instituted policies that are more accommodating to work/life balance, but have recouped the cost of these policies through increased retention. See Rhode, *supra* note 51, at 1058.
179. Chanen, *supra* note 6, at 46 (“Many young lawyers say they are not willing to sign their lives over to the firm, no matter how much they are paid. Instead they want the time to pursue other interest and build lives of their own.”).
180. See Neil, *supra* note 177 (“[A]nother survey points out that firms need to understand the concerns of different associate groups in order to offer them the right incentives to stay.”).
181. Flander, *supra* note 96 (quoting Marriott Executive Vice President David Rodriguez on the effect of Millennials in the company).
182. Hershatter & Epstein, *supra* note 36, at 219.
183. McClellan, *supra* note 14, at 269.

though those same lawyers would say, “oh, I think it’s really great that the young lawyers take off time for paternity leave, and that they don’t go on a travel assignment when their spouse is about to have a baby.”¹⁸⁴

Thus, even while holding a different set of values, previous generations of lawyers can recognize that the Millennial lawyers’ approach is worth considering.¹⁸⁵

Whether the Millennial generation is the impetus, or merely one in a list of causes, it is undeniable that profession-wide discussions about the norms associated with the legal practice have begun to occur both formally and informally.¹⁸⁶ New policies on work-life balance, reduced billable hour requirements, and family leave are popping up in law firms.¹⁸⁷ A small but growing number of firms are creating positions that require fewer hours in exchange for a lower salary.¹⁸⁸ Many in the legal profession argue that the billable hour model has lost its relevancy, and that systems focused on productivity or efficiency will lead to a lessening of tension between work and family life.¹⁸⁹ As one Boomer employer I interviewed admitted:

If people are going to sort of say, yes, in theory, I think work-life balance is a good thing but they don’t actually practice it, there’s a little hypocrisy there. I think employers should respect the demands for work-life balance from younger lawyers so long as they aren’t being taken advantage of.¹⁹⁰

Some say the recent economic crisis, and the resulting constriction of the legal market, will lead Millennial lawyers to abandon their workplace demands in order to secure any job at all.¹⁹¹ But research

184. Interview No. 12 (Jan. 30, 2015).

185. See RIKLEEN, *supra* note 17, at 183 (“Millennials are bringing an expansive perspective to the concept of work-life integration that offers an opportunity to create a healthier work environment for all.”).

186. See Weresh, *supra* note 56, at 363 (“Generation X employees and, indeed, some Boomer lawyers, are beginning to reexamine common time norms associated with law practice.”).

187. *Id.* at 389.

188. See Neil, *supra* note 177 (noting that two-tier structures are being created, “at least in part in an effort to address associate lifestyle concerns”).

189. Cooney, *supra* note 75, at 433–37 (discussing the problems with the billable hour model, and some alternative approaches that have emerged).

190. Interview No. 12 (Jan. 30, 2015).

191. See Christopher J. Gearon, *Law School Grads Find Temp Legal Jobs in Tough Market*, U.S. NEWS & WORLD REP. (Mar. 12, 2013, 10:00 AM), <http://www.usnews.com>

suggests that such preferences are hard-wired into the Millennial psyche, and although they may be temporarily shelved due to necessity, they will simply reassert themselves later once the crisis has passed.¹⁹² As one commentator noted, “We can look at Millennials positively, or we can view them negatively. It’s up to us. But they’re here to stay, and we are more likely to wear ourselves out fighting change, progress and the future than we are to change them.”¹⁹³

VI. RECOGNIZING NEW FEMINISMS

There is a rich and ongoing dialogue in contemporary culture about what it means to be a feminist. This conversation is happening both inter- and intra-generationally, as women from all different perspectives and backgrounds seek to make the feminist community relevant and responsive to their particular experience and viewpoint.¹⁹⁴ While this dialogue between and among those who call themselves feminists—and even those that do not—can create tension and disagreement, it is also crucial to the ongoing struggle to define and ultimately achieve gender equality for all people. It is naïve to assume that a monolithic approach to such complicated issues will be effective in speaking to all women, or to all people.

In the foregoing pages, I have attempted to describe one way that a particular type of feminism operates in the modern legal workplace. I have labeled this “Millennial Feminism” as a way to describe how Millennials unique approach to the workplace and the world creates outcomes conducive to gender equality. While not always explicitly adopting the feminist label, Millennials are creating—and even demanding—a workplace culture that I argue is more favorable to both men and women finding both balance and success. If this is true, can we understand what Millennial lawyers are doing in the workplace as feminist?

To be clear, this is not a question about whether the Millennial lawyers self-identify as feminists. The extent to which young women

om/education/best-graduate-schools/top-lawschools/articles/2013/03/12/law-school-grads-find-temp-legal-jobs-in-tough-market (noting the rise of contract positions and other nontraditional legal jobs as a result of the economic downturn).

192. See RIKLEEN, *supra* note 17, at 183–84 (citing PRICEWATERHOUSECOOPERS, *MILLENNIALS AT WORK: RESHAPING THE WORKPLACE* 12 (2011), <https://www.pwc.com/m1/en/services/consulting/documents/millennials-at-work.pdf>).

193. Daicoff, *supra* note 5, at 20.

194. See MEGAN SEELEY, *FIGHT LIKE A GIRL: HOW TO BE A FEARLESS FEMINIST* 38–40 (2007) (discussing the three “waves” of feminism and the intergenerational dialogue).

are distancing themselves from the feminist label, and the reasons why that might be the case,¹⁹⁵ are undoubtedly interesting and important. But those questions are simply too broad to meaningfully address here. Instead, the question posed here is a narrower one—whether the demands Millennials are making of their legal employers can or should be understood in the larger sense as part of the feminist movement for workplace equality.

A. Feminism “In the Water”

In some ways, because Millennials were born into a period of gender equality not experienced by any previous generation, the ideals of feminism are woven into the fabric of their perceptions of the world. As Jennifer Baumgardner and Amy Richards said in their landmark third wave text *Manifesta: Young Women, Feminism and the Future*, “[t]he presence of feminism in our lives is taken for granted. For our generation, feminism is like fluoride. We scarcely notice that we have it—it’s simply in the water.”¹⁹⁶ This is not to say that Millennials don’t appreciate or recognize the ways in which feminism and feminists have made it possible for women to equally participate in society, but only that asking them to mentally inhabit a world they’ve never lived in may be impossible.¹⁹⁷

While interviewing lawyers for this project, I very intentionally tried to not bring up gender or gender issues—the question prompts were only about work-life balance, advancement, technology, and generational differences generally. Many of the Millennials I spoke with, however, organically connected the conversations to how these topics specifically affected either women or men, or how the issues and the outcomes were gendered. After the conclusion of one interview with a Gen-X lawyer, she asked about the thesis of the project. Following a brief explanation, she offered her own take:

195. In fact, despite lots of popular press to the contrary, young women are more likely to identify as feminists (58%) than older women (54%). See Eleanor Smeal, *The Feminist Factor*, MS. (Winter 2013), <http://www.ms magazine.com/winter2013/feministfactor.asp>. But see Hannah Weinberger, *Where Are All the Millennial Feminists?*, CNN (Nov. 10, 2012, 10:38 AM), <http://www.cnn.com/2012/11/09/living/millennials-feminism/>.

196. JENNIFER BAUMGARDNER & AMY RICHARDS, *MANIFESTA: YOUNG WOMEN, FEMINISM, AND THE FUTURE* 17 (2000).

197. See SEELEY, *supra* note 194, at 25 (quoting a 22-year old speaking on what she thinks of as the greatest gains of the feminist movement: “My reality, and every opportunity I have ever had, are a direct result of the feminist movement. It’s hard for me to pinpoint the greatest gain of all because I have trouble imagining what life was like before.”).

I wonder if [Millennials] are less feminist in the sense that they expect things to already be a certain way. So that they don't maybe view it as feminism, it's just the right way that it should be, you know? Rather than for my generation, being, like, "What do you mean I don't get any maternity leave?" That's the kind of fight that we were . . . still are fighting. Whereas I think maybe the Millennials are like, "Of course there is going to be equality in the workplace, of course there is going to be equality in my home. Of course my spouse is going to do 50% of the work."¹⁹⁸

It seems likely, therefore, that Millennials' preferences and stated desires are informed by an underlying sense of equality that, while present, isn't necessarily explicitly articulated. Millennial women in the legal profession today may be much less likely to see their own advocacy for better workplace policies and practices as explicitly feminist because, having grown up with the positive effects of the women's movement of the 1970's, they may have "absorbed feminist ideas as part of their fundamental values and background expectations about the world [more so] than older cohorts of women."¹⁹⁹

B. Positive Entitlement

Perhaps operating in conjunction with the specific characteristics discussed in sections III(A)-(C) above, the Millennial characteristic that may have the greatest effect on the legal workplace is their willingness to demand that their preferences and desires are taken into account—in other words, Millennials' sense of "entitlement." In the popular media, Millennials are roundly criticized for this sense of entitlement.²⁰⁰ The vast majority of individuals tasked with recruiting and hiring Millennials (over 85%) say that "Millennials have a stronger sense of entitlement" than workers from previous generations.²⁰¹

The Millennial sense of "entitlement" likely extends to the perception on the part of Millennials that they are entitled to a

198. Interview No. 16 (Feb. 9, 2015).

199. Alyssa N. Zucker, *Disavowing Social Identities: What it Means When Women Say, "I'm Not a Feminist, But . . ."*, 28 PSYCHOL. WOMEN Q. 423, 426 (2004).

200. See Joel Stein, *Millennials: The Me Me Me Generation*, TIME (May 20, 2013), <http://time.com/247/millennialsthememegeneration/>.

201. Cooney, *supra* note 75, at 451.

workplace that is sensitive and responsive to their needs.²⁰² True to form, Millennial lawyers of both genders certainly seem to believe that they are entitled to a workplace that addresses their concerns and desires. In an article drafted as an entreaty from an male associate in a law firm to the partners he works for, the author maintained that “[p]artners *owe* it to their associates to ensure that the associate is not letting the work dictate the associate’s life schedule to such a degree that the associate has no interests outside of work.”²⁰³ Another Millennial quoted in Lauren Stiller Rikleen’s book, *You Raise Us—Now Work With Us: Millennials, Career Success, and Building Strong Workplace Teams*, stated that “[f]or my generation, balance . . . isn’t a hope, it’s an expectation.”²⁰⁴

This increased sense of entitlement on the part of Millennials of both genders is certainly a change from the sense of entitlement that female lawyers share—or more accurately, do not share—with their male colleagues. Studies have suggested that it is female attorneys’ *lack* of entitlement to better working conditions that results in them reporting about equal levels of job satisfaction, despite the existence of more objective barriers to their success in the legal profession.²⁰⁵ This lack of entitlement is also apparent in the statements of older female lawyers who felt that they could not ask for workplace accommodations.²⁰⁶

Certainly, this Millennial sense of entitlement can also have negative consequences.²⁰⁷ But what is wrong with feeling entitled to a work environment that promotes wellbeing and in which equality is simply assumed?²⁰⁸ Women are no longer such a small percentage of the legal profession that they must change to meet its demands, but

202. Berenson, *supra* note 114, at 55 (“[T]he increased ability of Millennials to get what they want, when they want it, goes beyond material possessions.”).

203. Jeremy Berry, *Associate Recommends Partners Advise Protégés to Go Fly a Kite*, DAILY REP. (Nov. 19, 2014), <http://www.dailyreportonline.com/id=1202676856644/Associate-Recommends-Partners-Advise-Protoges-to-Go-Fly-a-Kite?slreturn=20151118221757> (emphasis added).

204. See RIKLEEN, *supra* note 17, at 178.

205. See Rhode, *supra* note 51, at 1044 (describing theories that women have “made peace with second best” and thus do not feel entitled to improvements which would address aspects of the practice which disproportionately and negatively affect women).

206. See *supra* note 158 and accompanying text.

207. See Twenge et al., *supra* note 15, at 1134 (noting that the disconnect between Millennial expectations and reality reveal that they may be “overconfiden[t]”—a trait linked to narcissism and unrealistic risk taking).

208. *Work-Life Balance*, *supra* note 27, at 65 (quoting a senior female attorney stating: “My sense is that young people entering the legal profession today expect that employers will accommodate their need for balance between work and home. In that sense, we’ve made progress.”).

instead can demand that it change to fit them. In this sense, the Millennial sense of entitlement is no more than a recognition of this fact. As one young, female Millennial aptly explained:

[W]hether it's saying once I become a parent, I want to work one day a week at home, full stop, and just expecting that the answer from the company is going to be like, yes, go ahead, by all means. I didn't see the older [lawyers] doing that, I didn't see them having that expectation that if they did do that it would be appreciated. I almost feel like, you know, it's just a new thing. I think—I hate the word entitlement because it has such negative connotations, but I want to take out the negative connotations and still use the word, it's like the younger professionals or Millennials have a sense that I can have a life where I can go to yoga in the morning, work a fulfilling job and then go to happy hour. [That I can] have this full, well-rounded life of physical, social, spiritual, professional fulfillment and that's a thing that can happen. Maybe a generation back there was a sense of women being relatively new to high up leadership positions in law firms which were then male dominated . . . and there was a sense of “we better not f*** this up because now we're here, and we need to be better, stronger, faster to prove that we've earned our spots here. . . .” And I see my peers . . . this sense with Millennials that everything is more equal, there's less of a sense that one gender has to prove something to the other in the workplace. It's just like be your best professional, and if you have to do it working from home once a week, if you have to do it telecommuting from Burma, so you can run your non-profit three months out of the year, whatever you need to do, do it, just get your work in and have it be good work. And I think that's sort of new.²⁰⁹

209. Interview No. 3 (Jan. 9, 2015); see also RIKLEEN, *supra* note 17, at 23 (quoting a Millennial woman: “I think to some extent the working mothers in the previous generation felt like they really had to struggle, and occasionally feel that our generation is expecting the benefits they fought for, without ‘paying dues’ . . . That's the nature of progress—that successive generations take certain improvements for granted. Previous generations were probably considered ‘entitled’ because they grew up with electricity and indoor plumbing[.]”).

Articulated this way, the Millennial sense of entitlement is simply a recognition that women have equal value in the workplace and an expectation that employers can and should recognize this value.

C. A New Feminism

So what happens when basic assumptions concerning the fundamental equality of the sexes blends with the confidence to demand workplace policies that better address the preferences of all employees? As the discussion above demonstrates, the result may be a workforce that demands facially gender-neutral policies that nevertheless greatly improve gender equity in the modern workplace.²¹⁰ Others have similarly noticed the potential of the Millennial generation to spearhead advances in workplace culture that are good for women. As *The Working Mother Generations Report* asks, “[I]f Baby Boomers blazed trails for workplace equality, will Millennials broaden those paths so that more working parents get support, recognition and opportunities, both at the office and at home?”²¹¹

If Millennials’ demands will have the effect of improving gender equality either way, is it nevertheless important for Millennials to recognize the demands they are making of their employers as tied to a larger feminist movement? Social identity theory says that an individual is more likely to identify with a group when they perceive the group as able to positively contribute to the individual’s self-concept.²¹² As explored in Section IV of this article, Millennial women may be wary of identifying with older female lawyers because they see the pitfalls of the approach many of these women have taken, and thus seek to avoid identifying with them in order to avoid similar outcomes.²¹³ In other words, younger women may not want to identify with the second-wave feminism of older female lawyers in their workplaces not in spite of the progress made by

210. Studies have demonstrated that gender neutral policies, rather than policies that specifically target women, often advance the rights of women more effectively because they avoid potential backlash. See Claire Cain Miller, *When Family-Friendly Policies Backfire*, N.Y. TIMES (May 27, 2015), <http://www.nytimes.com/2015/05/26/upshot/when-family-friendly-policies-backfire.html> (“Perhaps the most successful way to devise policies that help working families but avoid unintended consequences, people who study the issue say, is to make them gender neutral.”).

211. WORKING MOTHER RESEARCH INST., *supra* note 60, at 10.

212. Rachel Williams & Michele Andrisin Wittig, “I’m not a Feminist, But . . .”: Factors Contributing to the Discrepancy Between Pro-Feminist Orientation and Feminist Social Identity, 37 SEX ROLES 885, 890, 900–01 (1997) (describing social identity theory and its usefulness in determining which women will identify as feminists).

213. *Id.* at 901–02.

women, but actually because of the negative effects of that progress—specifically, a workplace that demands women are totally devoted to their careers to the exclusion of the other parts of their lives. But that doesn't necessarily precipitate a rejection of the goals of second-wave feminists, even if it does cause young lawyers to seek out a new or different path towards those goals.²¹⁴

Of course, complete gender equality in the legal profession will not be magically achieved with the Millennial generation.²¹⁵ Many of the impediments to women's success in the law still exist,²¹⁶ and many of the tools to address these impediments have proven not up to the task.²¹⁷ But it should be taken as a positive sign that an entire generation of lawyers is pushing the profession towards a more reasonable, livable, and feminist workplace.

In an article addressing the slow progression of women into positions among the legal elite, second-wave feminist and Baby Boomer Judge Nancy Gertner states:

214. It may be that explicitly adopting a feminist identity is a critical first step before taking concerted action aimed at promoting gender equality. *See* Zucker, *supra* note 199, at 425 (“[W]omen who adopt *feminist* as an accurate self-descriptor are more likely than those who reject this designation to pursue activism on behalf of women’s rights.”). Those that believe in gender equality without adopting an explicitly feminist label, however, may still engage in “less risky” actions that have feminist outcomes. These “egalitarians” are “more like feminists than non-feminists” in their actions. *Id.* at 431 (“Perhaps only self-labeled feminists will take risky, public actions in support of women’s rights. However, egalitarians may—like feminists—take less risky and/or less public actions, such as voting, mentoring, and working to improve the climate for women and girls.”).

215. One important aspect of this debate that is not meaningfully engaged in this paper is how the particular challenges of women of color in the legal profession may require different or additional approaches in order to achieve greater equality. The lack of discussion on this point does not reflect an opinion that this discussion is less critical or less worthy of serious consideration, but only that the available statistical data on Millennials relied on in this paper rarely, if ever, breaks down Millennial attitudes by racial identification, thus hindering the ability to discuss what difference in experience or approach, if any, can be seen in Millennial lawyers of color. And as other commentators have noted, “initiatives that may effectively address gender under-representation may be a poor solution to racial under-representation and vice-versa, because, as we have seen, the causes of these under-representations vary.” Wald, *supra* note 30, at 1120–21.

216. *See* Rhode, *supra* note 51.

217. *See* Gertner, *supra* note 145, at 1478 (concluding that “discrimination law could not be more inadequate to the task of addressing” issues of women’s full participation in the legal profession).

The women's movement that I participated in was about . . . transformation—changing the lines between public and private spheres, and releasing the potential for change in each. It was about revolutionizing the workplace, with support services for families and altered expectations for both men and women. And it was about transforming the family, so that the traditional roles would more easily be shared.²¹⁸

The desired outcome expressed by Judge Gertner is the same one expressed by many Millennial lawyers—a transformation in the legal profession that would create a more effective balance between work and professional lives for both women and men. In the conclusion of the same article, Judge Gertner argued that the response to women's failure to reach the highest levels of the legal profession "has to be a collective one, not an individual response."²¹⁹ Eighty million Millennials likely agree.

218. *Id.* at 1476.

219. *Id.* at 1479.