

**Legal Precedents**

*The First Women Lawyers: A Comparative Study of Gender, Law and the Legal Professions.*  
Mary Jane Mossman. Oxford: Hart Publishing, 2006. 329 pp.

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<1> Histories of “Extraordinary Women” may have fallen out of scholarly favor, but this book makes clear why female firsts still merit attention, especially in the field of law where precedents rule. The first women lawyers stand out among other pioneers against gender discrimination in the professions because they compelled the law to recognize women’s personhood and unmasked the alleged gender neutrality of the term “person” in the law. In case after case, country after country, women forced judges to render interpretations of “person” in laws governing who was allowed to be a lawyer. What is more, the precedents set by these decisions, whether they went for or against women, ramified throughout legal systems based on English Common Law and influenced European civil law systems as well. Mary Jane Mossman, Professor of Law at Osgoode Hall Law School, York University in Toronto, contextualizes these decisions within economic, social, educational, political and professional structures arising primarily in North America and Europe in the nineteenth century which presented the legal profession as a route to women seeking to expand their roles and improve their lots. As such, *The First Women Lawyers* traces an important strand in the complex narrative of the global women’s movement.

<2> Like so many facets of women’s progress, this is a story of uneven development. Women committed to professional advancement were neither necessarily supportive of — nor supported by — women’s movements. The interests of women intent on earning a living through legal work could conflict with those seeking to advance women’s social status. Even women who themselves wished to practice law could object to legal challenges to exclusion, fearing precedents that would solidify women’s exclusion. Further complications included such local exigencies as admission to legal education and university education generally, admission to the bar, reforms of the legal profession, and opportunities for legal work within firms and by women working independently. Indeed, Mossman’s examples include several women legal workers who earned legal degrees but never attained admission to the bar. In these respects, the process that opened the legal profession to women shares many features in common with other histories of gender and the professions globally.

<3> Nevertheless, the organization of *The First Women Lawyers* makes evident how much women’s condition is dictated by the particularities of national laws and the degree to which

legal precedents exert influence internationally. Each chapter focuses on a nation and the chapters are arranged roughly chronologically. The study begins with the U.S., where women were first admitted to the bar. Mossman then treats Canada, Britain, New Zealand, India, and the European continent.

<4> The experience of women seeking legal work in the U.S. took place in the context of women's struggle for civil rights and paid work and their roles given the pragmatic necessities of the frontier. Although women had pleaded cases without official professional status even during the colonial period, the Iowa bar was the first to admit a woman in 1869. Arabella Babb Mansfield, a graduate of Iowa Wesleyan who had apprenticed in her brother's firm, passed the Iowa bar examination and her application was approved by the Iowa court. The next year, Ada Kepley was the first woman to graduate from a U.S. law school, the Union College of Law (now Northwestern University). These coincident events are indicative of two major fronts in the global struggle for women's access to the legal profession: admission to the bar and admission to law schools. Precedents in both arenas tended to move from west to east, with the earliest success in Iowa, Illinois, Kansas, Missouri and Utah. Not surprisingly, this process was inflected by race. Hopes that reconstruction amendments removing racial barriers to the full status of personhood would extend to gender discrimination proved unfounded. The strategies for achieving a "jurisprudence of integration" that included women often pitted suffragists against aspiring women lawyers who feared that the protests of the suffrage movement threatened their gains according to masculine norms of professionalism. The National League of Women Lawyers was established in 1893 in part to distinguish female legal professionals from the women's movement generally. Despite these conflicts and setbacks, the number of women receiving law degrees and practicing law grew, setting important precedents for other common law countries.

<5> Canada, the next country to admit women to the bar, was influenced not only by its neighbor's legal precedents and practices, however, but also, as a member of the commonwealth, by those of Britain. Not until 1897 did a woman, Clara Brett Martin, attain admission to the bar in Ontario. As in the U.S., however, the fast-paced growth of the Canadian economy provided ample work for lawyers, opening space for women. And, just as women were gaining entrance to U.S. universities for various courses of study, so, too, were Canadian women. Still, both legal professional organizations and the judiciary continued to reject petitions of female law graduates to be admitted to the bar. It would take changes in statute law enacted by provincial legislatures in the early twentieth century to authorize women's admission to the bar. Significantly, it was Quebec, tied more closely to continental civil law precedents than common law traditions, which did not pass legislation until 1941.

<6> This is hardly to say that the British common law paved the way for women lawyers. Although women had for centuries acted informally in a range of legal settings, the Inns of Court, the universities, and the law itself substantially impeded women's entry into the profession. The final decades of the nineteenth century saw numerous rejections of women's applications to the bar, even those of women who had completed university law degrees. Passage of the Sex Disqualification Removal Act of 1919 allowed Ivy Williams, Oxford law graduate, to be called to the bar. In 1922, Carrie Morrison became the first woman solicitor. Eliza Orme, LLD

University College London (1888), was the female lawyer with perhaps the most active legal practice, doing conveyancing and patents out of her Chancery Lane office, but she never was accepted to the bar.

<7> Among the British colonies, New Zealand and India offer striking examples. Whereas women's petitions for admission to the bar were rejected in Australia and South Africa in the latter decades of the nineteenth century, Ethel Benjamin, the first woman to petition in New Zealand, was admitted to the bar in 1897 at age 22, with little opposition. Significantly, her petition came after legislation granting both women's suffrage and women's right to enter the bar. The exclusive network of the legal profession constituted the greatest barrier to Benjamin. Starved of clients, she took up the cause of publicans against state regulations and herself became a successful hotelier, eventually abandoning a legal career. Mossman briefly notes that few women of New Zealand followed in Benjamin's footsteps. The reasons why she remained an "extraordinary woman," given the hospitable legislative conditions for women lawyers, are largely unexamined. By contrast, Cornelia Sorabji, probably the most internationally famous woman lawyer of this period, never gained admission to the bar – this despite her Oxford law studies, appearance in a Poona court and for the defense in a British murder trial, and legal work on behalf of women in purdah in her native India, all chronicled in her memoir, *India Calling* (1943). The closest she came to official professional status was a government appointment as a "Lady Assistant" to the Court of Wards in India. At her death in London in 1954, obituary notices hailed her extraordinary status, reminding us of why we have come to view this category as reactionary.

<8> Mossman's final chapter focuses on the European continent, with examples drawn from the correspondence of the Belgian barrister, Louis Frank. His treatise in defense of women lawyers, *La Femme-Advocat* (1898), was prompted by Jeanne Chauvin's application to the French bar, which was granted in 1900. As the result of his involvement in this case, he invited correspondence from female lawyers worldwide. Those letters form a significant source of Mossman's evidence regarding not only the women discussed above, but also for women across Europe, South America, and Asia, and chart the gradual changes in these jurisdictions to admit women lawyers.

<9> Mossman concludes by acknowledging that the first women lawyers' relation to feminism is complicated. Nevertheless, their precedents had important feminist consequences, some of which remain unfulfilled. In a *New York Times* interview preceding the Senate confirmation hearings on Sonia Sotomayor, Supreme Court Justice Ruth Bader Ginsburg welcomed the prospect of having another woman join her on the Court. She noted the composition of the Supreme Court of Canada, which is headed by a female chief justice and populated with three female justices. As a U.S. citizen, this reviewer was discouraged by the reminder that while her country has set precedents for women's admission to legal practice, so many "firsts" remain to be realized. The first U.S. Latina Supreme Court justice should give some cause for rejoicing.