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'Alive in the Telling': Trailblazing Women Lawyers' Lives, Lived with Law

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Abstract

The title of this chapter is inspired by Kirin Narayan's book - *Alive in the Writing: Crafting Ethnography in the Company of Chekhov* (2012), who I heard speak at the Australian National University where she was later appointed Professor in the School of Culture, History and Language.¹ Kirin engaged us all in her life journey as an anthropologist with verve, passion and energy. Her message was that 'when words gather together with energy, others places, other people, and other voices stir in parallel life' (2012: ix). She reminds us that writing can be as powerful as her oral presentation in conveying her drive and spirit and she provides great insights on how we can all seek to be 'alive in the writing'.

‘Alive in the Telling’: Trailblazing Women Lawyers’ Lives, Lived with Law

Kim Rubenstein*

1 Introduction

The title of this chapter is inspired by Kirin Narayan’s book - *Alive in the Writing: Crafting Ethnography in the Company of Chekhov* (2012), who I heard speak at the Australian National University where she was later appointed Professor in the School of Culture, History and Language.¹ Kirin engaged us all in her life journey as an anthropologist with verve, passion and energy. Her message was that ‘when words gather together with energy, others places, other people, and other voices stir in parallel life’ (2012: ix). She reminds us that writing can be as powerful as her oral presentation in conveying her drive and spirit and she provides great insights on how we can all seek to be ‘alive in the writing’.

Ferrying these ideas into the realm of oral history, where we do have the voices and words of the speaker to listen to, as well as the recordings’ transcripts, this chapter examines how oral history assists us in our thinking about women lawyers’ lives lived with law – what is the value in being ‘alive in the telling’? I have come to think about these questions through conducting an oral history project on *Trailblazing Women and the Law*,² enabling me to reflect on the questions raised by this collection by focusing on one particular interview conducted over several recording sessions in 2015.³

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The editors of this volume asked contributors to reflect on how we write about lives lived with law, ‘whether as methodology or as a form of commitment’? I am deliberately using the ‘first person’ writing style in order to emphasise that my own perspective and life experience influences the way I engage with the material itself. By writing in this manner, I seek to openly convey how the stories I share in this chapter are mediated by a white, sixth generation Jewish Australian woman who is also a lawyer. My own life experience is relevant to both my thinking about lives lived with law and my understanding as the interviewer in the oral history process (see Perks and Thomson 2016: 135–296).

While, in some respects, this point is common to any research project, in that in one way or another all researchers are inherently influenced by their own life experience and perspective in whatever they analyse and explore, I want to examine how my own personal perspective, my own life, influences the way I conduct research. First, and more broadly in this project, my own interests and legal expertise allow me to probe certain aspects of the interviewee’s life that another interviewer would and could have taken differently, and I no doubt have left out questions that others may have asked.⁴ Also, my own personal perspective influences the way I act as a lawyer and law academic and I need to be conscious of what this means for our research?

The oldest person interviewed for our project,⁵ Peg Lusink, was 93 during our interview sessions.⁶ Peg was the first woman law partner in the commercial law firm then known as Corr and Corr in Victoria, Australia. She also became the first woman from Victoria appointed as a Federal Court Judge when she joined the newly created federal Family Court of Australia in 1977. Peg is also the daughter of the late Joan Rosanove. Joan Rosanove was the first woman to sign the bar-roll in Victoria in 1923 (the year after Peg’s birth) and then the first woman to be appointed a QC in Victoria, although not until 1965, some 11 years after her first application and having been a member of the profession for 46 years (Ryan 2015: 96). Joan’s story reflects particular hurdles, however she is no longer alive to tell her own tale. However, a biography is available (Carter 1970, see also Falk 2002, Ryan 2015)

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and excellent film footage of Joan speaking in 1965 enables us to hear and see her say in her own words:

I've had to accept in this day and age that I'll never be made a Judge ... it has always been pretty tough going, as you don't get a terrible lot of breaks – it is by far the most competitive of profession of any of the professions – and when a young woman starts at the bar, she has got to wait a very long time, she has to be very patient before she gets a brief at all, and she has to be very successful with that brief in order to get the next brief.⁷

As we shall see further below, these statements are poignant in relation to her daughter Peg's experience, and a reminder that Joan's journey laid the foundations in various ways for Peg's and other women's lives lived with law.

I have chosen Peg's interview for closer analysis as she is related to me. My grandmother, Zara (although known throughout her life as Bobbie) Joseph (née Lazarus), was Joan Rosanove's (née Lazarus) younger sister by almost 18 years. Peg Lusink is my mother's first cousin – and Peg's children are my second cousins. As it turns out, however, the first time I met Peg and had a proper conversation with her was in the context of interviewing her for this oral history research. In the course of interviewing her, I discovered that her granddaughter, my second cousin once removed, had attended the same high school as me three years behind me, without either of us even knowing of our family connection.⁸

In highlighting both my own life as an interviewer and the further personal connection to this interviewee I explore the broader point about 'lives lived with law' as researchers, reflecting upon these questions in a transparent form of methodology. I am influenced in my own professional legal academic interests and research activities by my own particular life story – my own life lived with law that I am privileged to be writing about.⁹

2 Oral History

The concept of being 'alive' is crucial for a project drawing from the

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collection of over 50 full life oral histories of women identified as ‘Trailblazing Women lawyers’¹⁰ that are now part of the database of the National Library of Australia’s oral history collection (Rubenstein & Morgan c 2016a). There are many trailblazing women lawyers who are no longer alive and so cannot be captured in this oral history aspect of the project. Indeed, part of the urgency of the project comes with the desire to capture the oral histories of those who are aging.¹¹

The National Library of Australia’s oral history collection can be traced back to the 1950s and as its website explains it ‘includes a rich and diverse collection of interviews and recordings with Australians from all walks of life’.¹² Moreover, it proclaims that it records ‘the voices that describe our cultural, intellectual and social life’ (National Library of Australia). The Trailblazing Women and the Law project now accounts for a portion of the more than 1000 hours of interviews added to the collection per year over the last five years. Depending upon the women interviewed for our project, who determine the broader access to their interviews by the public, they may become available directly online or may be requested from the catalogue, although some choose to close the interviews for a specified period. All our interviewees, however, have allowed our research project to draw from the interviews for our research, subject to their review of any output or material before publication.¹³

These oral histories provide us with an avenue to examine and reflect on a range of research questions emanating from the crucial point that women lawyers stand at the professional forefront of women’s participation in Australian civic life. As Mary Jane Mossman wrote of the first women lawyers in the late nineteenth and early twentieth centuries, while ‘the role of women doctors could be explained as an extension of women’s roles in the ‘private sphere’; by contrast, women lawyers were clearly ‘intruding on the public domain explicitly reserved to men’ (Mossman 2006: 14).

Many of the women we interviewed, despite being well known in their field, had not been mentioned in many public records. Until now, there has not been a full historical picture of women’s

experiences, women's lives, upon first entering the legal profession. Written references to this knowledge gap abound over the last decade of research, as smaller or anonymous studies have begun work on women lawyers. In 2003, for example, Rosemary Hunter prefaced her Australian contribution to the International collection *Women in the World's Legal Profession* by stating 'there has been only limited research on the gender dimension of the legal profession [and] the following statistics reflect the paucity of available data on women in the legal profession in Australia' (Hunter 2003: 98).

This article highlights the value of oral history as a form of legal history to be identified as a significant part of our collective 'public memory'. Oral history is a form of research data that is in contrast to other materials available to researchers, when describing lives lived by those in the past. For those lives where no oral history has been conducted, we need to rely on documents kept telling us something of their lives,¹⁴ through for example, letters and other documentary material that captures aspects of their lives and other people who can tell us about their own interactions with those individuals. All of those perspectives are important, and their availability is growing greatly in an Internet age where a lot of material is now placed online,¹⁵ but they do not provide us with the opportunity of hearing the reflections of the person herself, and it is in that person's reflections that this oral history project has been interested.

Oral history has been the subject of significant scholarship. As Robert Perkins and Alistair Thomson write in their introduction to the third edition of the invaluable *Oral History Reader* '[o]ver the past seventy years, oral history – "the interviewing of eye-witness participants in the events of the past for the purposes of historical reconstruction" – has transformed the practice of contemporary history in many countries' (2016: xiii).¹⁶ Moreover, they note that oral history has challenged 'the historical enterprise' given it is not only the 'privileged preserve of academic or professional historians' (2016: xiii). While this chapter is being written from the perspective of my privileged academic world, oral history still captures in this context

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what Perks and Thomson describe as a significant and unique 'active human relationship' that 'transforms the practice of history in several ways' (2016: xiii-xiv). One of the contested aspects of the genre is that historians are 'notoriously wary of memory as a historical source' and there has been 'fierce debates' about 'the reliability of memory, the psychology of the interview relationship or the interpretation and representation of people's lives' (Perks and Thomson 2016: xiv). These aspects of contention fuel this article in examining the use of oral history in analysing and learning from trailblazing women lawyers' lives.

The debates also fed into the desire in our project to expand the range of women interviewed within our project. A much more demographically complex picture of trailblazing actually exists in the unheard stories of women trailblazers across generations, jurisdictions, practices and ethnic, marital and religious statuses. As Larissa Behrendt, a trailblazing Indigenous lawyer explained before the project even began, 'Indigenous women have had and will continue to have different roles to that of non-Indigenous women [who were]... expected to stay at home [and were] economically dependent on [their] spouse' (cited in Blair 1993: 120). Tracing these differences in women lawyers' experiences has been essential to responding to the hypotheses that pioneer women lawyers' lives are heavily contoured by their professional and social backgrounds, to contradicting the traditional presentation and study of women as a unitary class and to ultimately opening up new ways to move towards an equality of citizenship in the legal profession (Thornton 1996, Rhode 2002, Mossman 2006).¹⁷

By identifying diversity as a core tenet of our research, the Trailblazing Project has produced strong, detailed, new data of the degree and meaning of difference in the trailblazing community. This analysis has allowed us to begin interrogating the impact of different causal factors on the gendered experiences of these women. As Mary Jane Mossman has written of women in the Canadian legal system, 'the 'glass ceiling' was often experienced by minority women as a 'steel door' (Mossman 2006: 4).¹⁸

3 My own life ‘lived with law’

As identified earlier, oral history scholarship reflects upon the nature of the relationship between the interviewer and the interviewee. Valerie Yow sets out practical advice in her book *Recording Oral History: A Guide for the Humanities and Social Sciences* on how ‘everything you do before the interview will contribute to the establishment of the character of the relationship’ (Yow 2015, cited in Perks and Thomson 2016: 153). She also highlights, in her other scholarship, how important the relationship is to the interview, and how important it is for the interviewer to reflect on their own reaction to the interviewee –

liking or not liking, feeling repelled by difference in ideology or attracted by a shared world-view, sensing difference in gender or age or social class or ethnicity, all influence the ways we ask questions and respond to narrators and interpret and evaluate what they say (Yow 1997: 78).

Moreover, she calls upon all interviewers to ask:

1. What am I feeling about this narrator? 2. What similarities and what differences impinge on this interpersonal situation? 3. How does my own ideology affect this process? What group outside of the process am I identifying with? 4. Why am I doing the project in the first place? 5. In selecting topics and questions, what alternatives might I have taken? Why didn’t I choose these? 6. What other possible interpretations are there? Why did I reject them? 7. What are the effects on me as I go about this research? How are my reactions impinging on the research? (Yow 1997: 79).

This awareness, she argues is central to oral history, and it is central to my reflections on my own life lived with law, looking at others’ lives lived with law.

Yow’s questions reflect my own consciousness about this particular interview and why I chose it to reflect on in this piece. My own sense of connection to Peg Lusink and her family existed before ever meeting her. It was always a background presence in my life. As a young girl, I have a slight memory of walking with my parents and sister along the

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Frankston beach and being introduced to Peg’s mother, Joan Rosanove, and her father Manny. The Australian Dictionary of Biography records that Joan spent her retirement from 1969 at Frankston (Falk 2002), where she enjoyed fishing and gardening. If I met her after she retired and she died on 8 April 1974, just shy of her 78th birthday, then I was most likely between four and nine years old when I met her. My stronger visual image of Joan Rosanove while I was growing up was the front cover of the Isabel Carter biography, and later that was superseded by the famous photo of her with a cigar in her mouth, which is now on the banner in our project website and also on the banner of an online exhibition of *Australian Women Lawyers as Active Citizens* which is one of the outputs of this research.¹⁹

But beyond those memories, and being able to appreciate that my Nanna Bobbie’s older sister was Joan Rosanove, I had not met with her family. As soon as I had a sense that I was interested in studying law (largely through my love of debating at high school), my grandmother and family affirmed it as following a family trait. In other words, there was nothing unusual about being a woman interested in law; not only was I in a school environment encouraging of going on to University with law school one main option, many women had gone before me *and* I had some ancestral connection to it, even though I didn’t have any direct family in practice, nor had I ever gone into a law firm or a court of law. I enjoyed studying law at the University of Melbourne Law School in the 1980s and was an active law student, including being a Law Review editor, ‘mooter’ and achieving strong academic results. However, I was unable to claim the Joan Rosanove prize for the top women graduate in my year!

My grandmother was alive when I graduated and was a constant part of my life in my 20s as a practicing lawyer, and she only died in 2007 at the age of 94 when I was a Professor of Law, but she had never thought to introduce me to her niece who was still alive, nor had she maintained contact with any of her sister Joan’s family. I did not fully investigate the reasons for this when my grandmother was alive, but it could simply be that given Joan was almost 20 years older

and they led quite separate and different lives that it just never entered her mind. Investigating this further may have taken me into the more fraught aspects of family oral history.²⁰ But my grandmother happily claimed Joan as her older sister when it was discussed following my admission to practice at the reception at Corrs Chambers Westgarth where I had undertaken my articles. During my time working at Corrs, and indeed up until conducting the oral history interview with Peg, I had no knowledge that Peg had been the first woman partner of the firm.²¹ The lack of actual connection between the families was further highlighted on one occasion when I had attended the chambers of the now retired barrister John Larkins QC, who Corrs was briefing in a particular matter. I asked him after the meeting why he had a photo of my great aunt, Joan Rosanove, in his chambers. He replied: 'she is my grandmother'. John is Peg's son, who appears later as instrumental to her life lived with law, explained shortly.

So it was mostly curiosity dominating my feelings in first making contact with Peg. I had not originally planned to interview her as part of the 45 funded by our grant, as my understanding was that Peg lived in country Victoria making the process (of several days of interviews) more difficult. It was only when she was contacted for another aspect of the project²² that I discovered that she lived within a five minute drive from my home and then, as the oldest person on our list, she became a priority!

I followed Valerie Yow's advice of 'making a brief visit ... before the day of the interview' (cited in Perks and Thomson 2016: 153) to develop a 'rapport with the subject'. I also had a desire to acknowledge and affirm the family connection, which led me to suggest to Peg that I bring my mum to say hello in our first meeting, to reconnect first cousins, even though my mum is 20 years younger than Peg. That first meeting did enable us to chat informally and without any need for structure of any kind, and we did cover the family connections and some family folklore. It also provided me with a comfortable foundation and stronger connection for my return soon after with the National Library of Australia's recording equipment in hand.

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The broader stories and reflections from that interview are extensive, but there are aspects of our connection that are worth highlighting in the way the interview affirms the transparency and consequence of connection. Amusingly for me, within the first few minutes of recording, Peg corrected me in the way I pronounced her name. I had pronounced ‘Lusink’ as Lu – sink and she corrected me that it was pronounced ‘Loo-sink’. This resonated immediately. As I explained in the recording, I have spent my life correcting people about the pronunciation of my name – pronounced Ruben-steen, over Rubenstein.²³ I had a further sense of connection!

I also wanted to be clear to ensure the listener was aware of our relationship. So, after that correction, and within the first few minutes of beginning the interview I acknowledged that Peg’s mother was my grandmother’s older sister but also acknowledging ‘I haven’t really had much time in my life up until now to meet with Peg’, to which she responded:

Thank you Kim very much. I can’t tell you how honoured and delighted I am to have the opportunity to talk today and in particular, we are reviving family memories which have been long lost and so it’s an extra dimension to talking today.

The family history we shared on her mother’s side, was not only of broad interest to the project (as they are with all individual’s family histories that we ask all interviewees about through this research), but enabled me to hear stories that I would not have otherwise heard, of the ancestry that had gone before her own life lived with law, that were also part of my ‘ancestry’ lived with law. Given the interview was not being conducted solely as a family history exercise, I did not have to be as wary of problems otherwise raised in family oral histories that revolve around the

thorny issues around family myth and memory; pitfalls in using the interview technique alongside paper-based family records. ... [and the] need [for] careful evaluation and even more caution when it comes to sharing and reusing the data (Perks and Thomson 2016: 139, 145).

Kim Rubenstein

Perhaps if I had not been the lawyer interviewing in this project, I would have probed further into those aspects of common interest?

That her grandparents were my *great* grandparents, no doubt prompted me to begin by asking her to tell me about her grandmother Ruby. Again I was sure to make transparent:

Kim Rubenstein: Yes, I want to know a little bit about her. And I think the listeners, I don't think it's just because I'm related to her, that others would be interested too.

As a Jewish woman, I was also interested to find out how her Jewish ancestry played (or didn't) into her own identity, and the extent to which it may have been relevant to her professional life. Those questions may well have been asked by any interviewer interested in questions of diversity and the impact of different forms of identity on people's lives. They were particularly interesting to me in thinking through the aspects of challenge that may have been relevant to Jewish women during her period. As it turned out, her story is an interesting story of assimilation and provides insights into Australian Jewish history, comparing those families arriving in Australia before the Second World War and those who arrived as survivors of the Holocaust.²⁴

And my other 'contribution' came from my own connection with my own grandmother's story woven into the interview. After returning to a story that Peg had shared earlier with Juliette Brodsky for an interview for the Victorian Women Barristers Association,²⁵ Peg recalls Joan's chameleon like manner of being in the courtroom one minute, acting out the role of adversarial opponent and then being home soon after:

Peg Lusink: My mama is lying on a chaise lounge in their apartment, dripping very flimsy, gorgeous lacy thing. She's got a box of chocolates beside her.

... that is the most vivid picture I can remember of my mother. And she's saying, 'isn't your father marvellous?' And dad's out there pulling the crayfish to bits and she is, she had shed her skin like one of those lizards.

Kim Rubenstein: Chameleon.

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Peg Lusink: Chameleon, yeah, absolutely

Kim Rubenstein: Yes. See my, the one story which we’ll add here to finish off in terms of adding into the history of Joan’s activities of my grandmother Bobbie, who was born Zara, the one story that she would tell me over and over when I was studying law and she was making the links with her older sister and her father, who were both lawyers, was she remembers going in to court and watching a case where Mark was on one side and Joan was on the other.

Peg Lusink: Oh really?

Kim Rubenstein: And the way they were so tough with one another and probably trying to tear strips across, and my grandmother feeling so upset about seeing her father and her sister fighting in court. And then going out and seeing them afterwards as if nothing had happened...

Peg Lusink: That’s right.

Kim Rubenstein: And so, it was really, what you’re showing is that chameleon style of that ability to really take on the part of the advocate, without it necessarily being personal in any way whatsoever.

Peg Lusink: Yeah, I think that’s a sort of mode of survival.

Concepts of survival, and living life as a lawyer as a form of survival may indeed be a theme for some trailblazing women lawyers – surviving in a ‘man’s world’. But law as a form of survival turned out to be significant in a different way in Peg’s life.

4 Peg Lusink’s Life

In looking at the ‘end point’ of Peg’s career as the ‘first to’ in various activities in law, there is a clear sense of her having been ‘born into’ the legal world. While this is true and interesting to compare with other trailblazing women who did not have such an entrée of a mother who was the first woman QC, her oral history shows us that Peg’s professional story began by resisting that legal world, and reacting to her mother’s life journey.

Kim Rubenstein

Peg Lusink: Yes, I had fortunately matriculated when I'd been at Melbourne Girls Grammar and but then of course done nothing else of any consequence anyway.

Kim Rubenstein: Although and I think we touched on this briefly last time but again I thought I would just put on the record. We've got in our research that ... there was a news article in Perth... on 29 March 1939, so you were at that stage seventeen or not even that because it says, legal history has been made in Victoria by Mrs Joan Rosanove, Melbourne barrister and solicitor and her daughter Peggy aged sixteen who has been articled to her mother. And it says Peggy has begun her articled clerk course at Melbourne University and will work during the course at her mother's office.

Peg Lusink: Yeah, that was a very, a very few months of the introduction to law, I'd say. My parents, I was desperate to do medicine. My father who was a doctor was totally against the idea and apart from that I could not pass geometry or algebra, which were two requisites at that time to start medicine. So very reluctantly I started at Melbourne University as I say. I'd forgotten I'd been actually articled to my mother, but that, that would be correct in those days. And I had a wonderful year wherein I sat for no law exams I think and most, my fondest memories are being in the university revue with a number of people who subsequently became most eminent members of the legal profession.

Kim Rubenstein: Well, it was the beginning but a very short beginning but really ...

Peg Lusink: Very short.

Kim Rubenstein: .. I guess it showed the opportunity that was there for you at the time, but which you chose at that point not to continue with because of your ...

Peg Lusink: ..That's correct.

Peg did not continue beyond 6 months:

Peg Lusink: ... if I'd ever thought about the law, I probably resented

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it because the family said you've got to do law. And also my, if we're going to try and be a bit philosophical about it, probably I would have resented the law because I thought it took my mother away from me. I mean these are thoughts now that I'm saying that I haven't consciously considered. But I think you would have to say as a child, you might easily resent, I probably resented it and associated it with law. And I've never been married to the law. I can say that quite honestly now. I've been extremely fortunate and I, most grateful to the law as such. But it's never been my life ...

Instead of completing her articles and following a path laid firmly down for her, Peg determined to follow a more 'traditional' path, having met Graeme Larkins as a schoolgirl when she was at Merton Hall and he was at Melbourne Grammar.

Peg Lusink: Jacqueline Herbert was a friend of mine and her mother had been to school with my mother in Ballarat. So she was approved of. And she was friendly with a bloke called Bill Harris. Now Bill Harris was friendly with Graeme right? And Bill Harris and Graeme were both in the cadet corps, which they had in Melbourne for a while. And they had cadet corps dance. And I was invited to come as Graeme's partner. And my mother only let me go because she'd been at school with Jacqueline Herbert's mother. Jacqueline subsequently married Bill and he became .. Justice Harris on the Supreme Court. And Graeme and I met that night and never had another boy or girlfriend or went out with another soul ever.

Kim Rubenstein: And how old were you?

Peg Lusink: I was about sixteen, fifteen or sixteen. And my mother took me in. I remember, my mother took me into her Miss something or other, who was at Foy and Gibson who was the Couturier of the day for me to get a dress for this cadet corps dance. And it was made of red velvet and it was my first long dress. And it ended up as cushions at Corryong.

[Laughs]

Kim Rubenstein: When Graeme took you, was that arranged by Jacqueline because he was a friend of Bill's or had you actually met

Kim Rubenstein

him before that night?

Peg Lusink: No, I'd never met him before that night.

Kim Rubenstein: And from that moment.

Peg Lusink: From that moment we never had, well he was gorgeous.

Kim Rubenstein: Yeah, we're looking at a photo of him here.

Peg Lusink: I can still weep about him now, don't talk about him. He was the love of my life and for 19 years we had a really, you know, very special. He was my other half.

They got married when Peg was just shy of 18 on 9 April 1940, in a 'hush hush' wedding due to it being war time with three sons to arrive within six years of their marriage – John in 1941, Richard in 1943 and Stephen in 1946. For the next 19 years, Peg's life happily revolved around the family, enjoying being the doctor's wife in country Victoria, first in Walwa and then in Corryong. It was a time when she learnt to cook, and was 'all over my kids'. Throughout this period, she would later reflect, both during wartime and indeed earlier, thinking also about the Depression period.

Peg Lusink: ... you are very privileged if you're able to live through this terrible, terrible events without them actually touching you. You don't realise it at the time. It's only now you realise how fortunate you've been.

That fortune also took them overseas while Graeme did his senior medical training in England in the early 1950s – although it wasn't the first trip for Peg as she had travelled as a child when her father had done his medical training. She and Graeme and the boys lived in England for 'two wonderful years' with the kids going to school. Did they ever think of staying?

Peg Lusink: Oh yes, we would have loved to have stayed in England. And but the two things, two reasons we didn't, one was the doctors were shockingly paid in England. And we couldn't afford to give the kids the same education. And secondly we wouldn't have been able

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to give them an education sort of at Eton or any of the, to give them the top education. They were all, the boys were really always sort of paramount in our thoughts. They really were. From an education point of view because we always both believed that the best education you could give them, you gave them. And then it was up to them. And that’s exactly what we’ve always done. And so and he realised that his medical chances were much better here. And the kids were better at school here. But we’d have loved to have stayed there.

Returning to Australia at the end of 1953 after having witnessed Queen Elizabeth’s coronation:

Peg Lusink: They went back to school. And then I then I started working for mum because we were very poor. Because we’d spent all our money in England. And I mean we really had.

Peg Lusink: Ah well because when we came back, we’re living in a rented house in Kew. The boys have gone to school. We’ve got no money. Graeme’s sitting in Collins Street waiting for patients which is what you did in those days. He then got, he was doing part-time locums at night and because we had to pay school fees, you know. It was a lot of money. And, and mum was having trouble. She was in Selborne Chambers and she ... couldn’t get sec-, you know, secretary of something. And she said, what about, would you like to come and work part-time? And I said, absolutely. So I went and sort of acted as her secretary part-time. And it was helping me and she knew I had to be off with the boys and things. And I did that for, well, I was still doing it I think when Graeme died.

Kim Rubenstein: Yes, so you were there and which year was it that you started law?

Peg Lusink: 1960.

The link with law as a form of survival comes with Graeme’s tragic early death in 1959 at the age of 41, with John just having begun University studying law and Richard and Stephen still at school. It was the need to think beyond working for her mum that the journey back to law school began. But could it be described as the ‘trigger’ I asked?

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Peg Lusink: Well at no, Kim I would have to say it really wasn't the trigger. I never really was keen to do law. Law was never very high up in my list of priorities. And after Graeme died all I could think was that I would have to do something because I was, and I had fortunately matriculated as I've already said. What happened then was I at the later part of that year started saying to the boys when I picked myself up of the ground, that I would have to do something and I envisaged doing teaching, arts at night and working part-time 'cause I'd had very little money. And we had to sell the house we'd built.

Peg Lusink: and I knew that I would have to get into the workforce in some degree. And um my mind ran as I say towards teaching and doing some part-time university course. And John was doing first-year law. He came back from university one day and this is towards the end of the year and said, the boys and I have been talking. Now when he was talking about the boys, that was Richard and Stephen, my two younger sons, who were both dedi-, both quite determined to do medicine, not because they were being pushed but that was what they were going to do. And they were both still at school. John was doing first-year law. He came back one night and said, ... we decided you'd better do something you could make a living out of. And I've made an appointment for you to see the dean of the law school tomorrow or whatever day it was, because otherwise we'll have to keep you for the rest of our lives. And in a, my fuddled state I went up and had an appointment with the then Dean.

Kim Rubenstein: Is that Ford?

Peg Lusink: Ford.

Kim Rubenstein: Yeah, Professor Ford. Yes.

Peg Lusink: Who ... was most understanding and welcoming and said, well I would have to sit for one of these exams, which I did in perhaps January or February, which is one of those terrible exams, you know, where they ask if a train's going through a station and I have absolute, and having done it, I was perfectly sure I was going to go back to my original idea of teaching. But I did get accepted for law school and that's when I started.

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And the journey from beginning law in 1960 through to becoming a Family Court judge in 1977 is a fascinating mix professionally of privilege and connection, although not without subtle forms of discrimination. On a personal level, Peg met Theo Lusink while they were both mature age law students, and she married Theo at the end of 1964.

Theo figures in part in a delightful story regarding her sense of privilege and the inherent tension in being the first woman to become a partner at Corrs.

Kim Rubenstein: ... did you ever have any direct, apart from that client who you told us the story of, were there any other examples of discrimination that you were aware of from your fellow partners or from any other context?

Peg Lusink: I can tell you one story. I was an associate and then they decided they would make me a partner. And so that was a huge step. And I think I was the first partner in a, certainly in a large Melbourne firm.

Kim Rubenstein: First woman.

Peg Lusink: ... Now as a partner I did not actually go in on exactly the same terms as they did. I truly can't remember but I know at the time, but that didn't worry me. I was so enchanted that it didn't worry me at all. But I think financially and other perks if you put it that way. And I remember Tony Darville, who I'm very fond of, coming along to the bordello as he said one night. And he said, Peg I've got to talk to you. And I said, oh yeah. Because he was a great friend of John's and, you know.

Kim Rubenstein: Yes, he was the same age as John.

Peg Lusink: Yeah, he was a great mate of John's. And he said, he said, you know, now that you're a partner, he said, the partners all have a drink every night at five o'clock and now that you're a partner, I'm here to invite you along. And I said, oh Tony, I'm really honoured, thank you very much but I go home and Theo and I have a sherry at home every night. So I won't be joining you but tell them how much

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I appreciate that.

And he said, oh they'll be so pleased. Don't say. And well, it was, they were delighted. Relieved. And yeah so relieved or some word like that.

Kim Rubenstein: But they were only, only ...

Peg Lusink: They were doing it because it was the right thing to do but they really. And I didn't, I, I laughed, to me, but that was true for me. I wouldn't have wanted to do it. I'd have felt like an intruder. I mean there's no doubt in those days, I would have felt like an intruder. I didn't want to upset their world. And so I, and I'd have to say in the whole of my working life, I have never ever once felt discriminated against or ...

Kim Rubenstein: You mean in a way that offended you because that didn't offend you. 'Cause you were discriminated against. I mean you've just told us a story where you have been discriminated against, but not in a way that really affected you personally.

Peg Lusink: That's right.

Kim Rubenstein: Yeah, you were treated differently.

Peg Lusink: But in those days, I think we were trained to perhaps look at it all differently. We, it wasn't ever an expectation that I would have gone and drunk with the men.

Kim Rubenstein: Yes, exactly, yes. Yes the ...

Peg Lusink: It's not that I behaved, it wasn't any credit to me that I handled it like that. It was just, we had not expectation.

...

Peg Lusink: And I mean I'm sure other women would have done the same thing. They'd have made some excuse.

Kim Rubenstein: Yes.

Peg Lusink: But mine was a genuine. I mean, I did.

Kim Rubenstein: ... But it's also saying something about the wives

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of those partners at the time who didn’t have their husbands coming home to have a sherry.

Peg Lusink: But I never met them hardly.

Kim Rubenstein: you never met the wives of those ...

Peg Lusink: I don’t remember the wives much coming in there.

Kim Rubenstein: And their children, did you know anything.

Peg Lusink: No, I didn’t even know if they had children, hardly.

Kim Rubenstein: Yeah. So there, there was that real ...

Peg Lusink: It was a world apart.

That world apart was a gendered world apart, yet a world that had enabled her to be an articled clerk at the age of 44. At Corrs she ran solely a matrimonial practice – demarcated arguably as the ‘women’s work’ given its family emphasis, and due to her success and form of connection or status, the firm was ‘prepared,’ once she was a partner, to invite Peg to drinks, even though they didn’t really want her there. Her lack of offence at the response was because she didn’t want to be there either. She was content and ‘enchanted’ by being given the title of partner but did not need to join their ‘club’. In this sense her privileged standing, both in being born into the law, and being a white woman with a strong education and privilege was satisfying in itself.²⁶

5 Conclusion

Peg Lusink had a role model from birth; an experience of seeing that women could do law was always part of her consciousness. The oral history process enables us to hear more, in the person’s own voice, with more emotional and distinctive detail, the impact of this on her life. Peg’s experience and personal relationship with her mother, and her own personal early loss of her husband Graeme, meant that her path was more nuanced than just following in the footsteps of her family. But it is a path that ultimately enabled her to participate at the

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‘highest’ level as a Judge and lay the groundwork for the many more women following.

Peg Lusink: But if you ask me what I really, really regret in my life, very sincerely that she [Joan Rosanove] didn’t get the job that I got.

Kim Rubenstein: And you regret it because why?

Peg Lusink: Because she should have got it. It would have meant so much to her. It would, it meant a huge amount to me. But a different sort of, it wasn’t my

Kim Rubenstein: Your passion.

Peg Lusink: I was at the right place at the right time. And she was just a woman before her time. And for me, that is a great regret and a great sadness. Because for her it would have crowned her career and she deserved it. I didn’t deserve it. I just was fortunate and the gods were shining down on me, you know?

One can only wonder how Joan would now reflect on her daughter’s professional life, and indeed her sister’s granddaughter’s professional life, of being in a position to conduct this oral history as a law academic to tell the tale.

While this has felt self-indulgent in examining the interview that is most personally connected to me, and embedding myself and my perspective throughout, this scholarship is inspired by and further extends Kirin Narayan’s explanation of “auto-ethnography” – ethnography of one’s self or one’s group:

Auto-ethnography dissolves notions of ethnography as dependent on encounters across cultural difference, instead turning a descriptive and analytical eye on one’s own experience as shaped by larger structures and processes – including the professional background of academia (Narayan 2012: 95-6).

This frame has enabled me to draw from the theme of ‘lives lived with law’ to both value and place oral history into the important pursuit of linking lives lived, with law and its power in society, and to be an

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auto-ethnographer in the process as an academic, formed by various influences that have framed and motivated my own work.

From the perspective of the research objectives of the oral history research being undertaken, Peg’s experience is in contrast to others who did not have the same class or race advantage and who managed to ‘break in’ to the law, rather than being ‘born in’ to the law. Drawing from the rich interviews the different journeys, opportunities, engagements with civil society and responses to the direct discrimination they experienced along the way provides us with further insights into research around how gender is not the only form of identity that impacts on ‘lives lived with law’ (see Grabham et al 2009).

Being ‘alive’ to tell the tale and share another living example, drawing from life experience enables us to appreciate the value of the stories of trailblazing women lawyers and their impact on Australian society. It not only reclaims stories and aspects of legal history that would not otherwise be stored but it further interrogates the way their own lives reflect on the society they were born into, formed them and against which they lived.

Notes

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- 1 See Kirin’s home page at <https://researchers.anu.edu.au/researchers/narayan-k>
- 2 The project is an Australian Research Council Linkage project LP120200367. Linkage partners supporting the project include the National Library of Australia, together with the University of Melbourne, the Federal Court of Australia, the Family Court of Australia, the National Foundation for Australian Women and Australian Women Lawyers. Fellow Chief Investigators with Professor Kim Rubenstein are Gavan McCarthy and Helen Morgan from the University of Melbourne whose expertise is in social networks and cultural informatics and ePublication and women’s history archiving. Kevin Bradley is a Partner Investigator from the National Library of Australia who will be contributing substantial oral history expertise. Our Researcher/Coordinator Dr Nikki

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Henningham, also at the University of Melbourne also brings to the team great oral history expertise.

- 3 I am also grateful to Larissa Halonkin for her research assistance on this project, and in particular her work around Peg Lusink's interview that contributed to this article.
- 4 There are of course 'standard' questions asked of all interviewees about their life, but as they tell their stories the immediacy of engagement involves follow up questions and following certain aspects that one cannot know of in advance of beginning the interview. It will also be interesting to compare the interviews of myself with my fellow interviewer Dr Nikki Henningham who is a historian.
- 5 The youngest person interviewed was born in 1982 and in her early 30s at the time of interview.
- 6 Peg's birth name is Margaret. The details of the interview are at <http://catalogue.nla.gov.au/Record/6928772>
- 7 Juliette Brodsky has prepared a powerful collection of materials on the first women barristers in Victoria (Brodsky). The footage included is attributed to a 1965 Interview from 'On Being a Sheila', courtesy Nine Network Australia.
- 8 We were both at Presbyterian Ladies' College in Melbourne and the influence of that school on my own life is also relevant to my feminist outlook (see Australian Women's Archives Project 2014).
- 9 I have written elsewhere about the lottery of all lives – more in the context of formal legal citizenship (see Rubenstein 2005: 999). But privilege in this context is also about the world I have been born into as a young white, Jewish woman in Australia, with many opportunities presented to me by the luck and place of my own birth, my own family situation.
- 10 For the purpose of this research project, we have defined 'Trailblazing Women Lawyers' as women with law degrees who have been in the first set or pool of women lawyers to do anything in the public sphere – ie not necessarily wedded to traditional lawyering roles. Part of the hypothesis of the project is to look at the extent to which being a lawyer enabled those women to be active citizens. To read more about the research methodology see Rubenstein & Morgan (2016b).

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- 11 Although, it is important to note that this was not the only criterion for the selection of the 50 interviews from the almost 500 people nominated as trailblazing women lawyers. The project also ensured that there was diversity in the selection, taking into account geography (including state, federal and international practice), race, ethnicity, religion, sexuality, types of lawyering etc (see further Rubenstein & Morgan 2016b).
- 12 While the National Library of Australia’s oral history is rich, the library’s collection had very few women lawyers’ full life oral histories before this project began. Those that existed before the project began are identified at the bottom of our interview listed on our project website under ‘Other Interviews’ (Rubenstein & Morgan c 2016a).
- 13 Australian National University, Ethics Approval 2012/625, Humanities & Social Sciences DERC 1 Nov 2012. Peg Lusink has enabled her interview to be fully available to the public – see <http://nla.gov.au/nla.obj-212139177/listen>.
- 14 This raises interesting issues about the nature of archives and who determines what is kept in the public record (see eg Biber and Luker 2014, Blouin and Rosenberg 2011, Brown 2014, Chaudhuri et al 2010).
- 15 In the process of preparing for each of the interviews, our Legal Researcher, Larissa Halonkin used various research tools to find material on the web about our interviewees as background material for the interview.
- 16 Perks and Thomson cite Amadaou Hampate Ba as being credited with coining this phrase.
- 17 The TBWL project has interviewed a range of Indigenous women from across Australia. See the list of interviewees in Rubenstein and Morgan (2016a).
- 18 This output will be developed further in other chapters, and a book to flow from this project.
- 19 The project website is at <http://www.tbwl.esrc.unimelb.edu.au> and the online exhibition can be accessed at <http://www.womenaustralia.info/lawyers/index.html> and the specific entry on Peg Lusink which includes more details about her life than this article shares is at <http://www.womenaustralia.info/lawyers/biogs/AWE5660b.htm>
- 20 See further discussion in Perks and Thomson, in particular the ‘thorny issues around family myth and memory’ (2016: 139) where a range of valuable scholarship is set out on page 145.

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- 21 My own experience of getting a summer clerkship at Corrs at the end of my second or third year of law school in the 1980s was not through an organized framework for students (which didn't exist at that time), but one I initiated on my own, through contacting my grandfather, Keith Joseph's (Bobbie's husband) solicitor who worked at Corrs. After my summer clerkship I was offered articles for the completion of my law degree.
- 22 In the course of gathering names of potential interviewees including through the active support of one of our partners in the project, Australian Women Lawyers, we now have a list of over 400 nominated trailblazing women lawyers. Each of those women were contacted to see if they would prepare something about themselves for the online exhibition *Australian Women Lawyers as Active Citizens*. See <http://www.womenaustralia.info/lawyers/index.html>.
- 23 The entry about me in *The Encyclopedia of Women and Leadership in 20th Century Australia* highlights immediately the way our family pronounce our surname (Australian Women's Archives Project 2014).
- 24 My interview with Eve Mahlab is an interesting contrast – see <http://nla.gov.au/nla.oh-vn4970740>
- 25 The interview with Juliette Brodsky was conducted as part of material for the Victorian Bar and it includes the footage of Joan Rosanove speaking (Brodsky). That site itself was developed with the ongoing development of the Victorian Bar's Oral History project, accessible via www.vicbar.com.au Coordinated by Juliette Brodsky (who worked on the Victorian Women Barristers exhibition), that multimedia initiative captures the recollections of men and women barristers in Victoria through audio interviews, articles and photos.
- 26 For those readers interested in finding out more about Peg's life see her entry in the online exhibition *Australian Women Lawyers as Active Citizens* at <http://www.womenaustralia.info/lawyers/biogs/AWE5660b.htm> where there is also a photo available of her.

References

- Biber K and Luker T 2014 'Evidence and the Archive' *Australian Feminist Law Journal* 40/1: 1-14
- Blair N 1993 'Living in the Circle and Thinking inside the Square' in Pickering et al 1993: 120

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- Blouin Jr FX and Rosenberg WG 2011 *Processing the Past: Contesting Authority in History and the Archives* Oxford University Press Oxford
- Brown V 2014 ‘Explorations in Feminist Historiography: Rhetoric, Affect, and “What Really Happened” in Feminism’s Recent Past’ *Subjectivity* 7/2: 210-18
- Carter I 1970 *Woman in a Wig: Joan Rosanove QC* Lansdowne Press Melbourne
- Chaudhuri N, Katz S, and Perry M eds 2010 *Contesting Archives: Finding Women in the Sources* University of Illinois Press Urbana
- Grabham E, Cooper D, Krishnadas J and Herman D eds 2009 *Intersectionality and Beyond: Law, Power and the Politics of Location* Routledge-Cavendish Abingdon
- Hunter R 2003 ‘Women in the Legal Profession: The Australian Profile’ in Schultz U et al 2003: 87-102
- Mossman MJ 2006 *The First Women Lawyers: A Comparative Study of Gender, the Law and the Legal Professions* Hart Publishing Oxford
- Narayan K 2012 *Alive in the Telling, Crafting Ethnography in the Company of Chekov* The University of Chicago Press Chicago
- On Being a Sheila*. 1965 TV Series: Nine Network Australia.
- Perks R and Thomson A eds 2016 *The Oral History Reader* Routledge New York (3rd edn)
- Pickering S and Lambert C eds 1993 *Global Issues: Women and Justice* University of Sydney Institute of Criminology Sydney
- Rhode D L 2002 ‘Gender and the Profession: The No Problem Problem’ *Hofstra Law Review* 30/3: 1001-15
- Rubenstein K 2005 ‘The Lottery of Citizenship: The Changing Significance of Birthplace, Territory and Residence to the Australian Membership Prize’ *Law in Context* 22/2
- Ryan S ‘Joan Rosanove QC: A Law unto Herself’ *Victorian Bar News* 157: 90-7
- Schultz U and Shaw G eds 2003 *Women in the World’s Legal Professions* Hart Publishing Oxford and Portland
- Thornton M 1996 *Dissonance and Distrust: women in the legal profession* Oxford University Press
- Yow V 2015 *Recording Oral History: A Guide for the Humanities and Social Sciences* Rowman and Littlefield Publishers Lanham MD (3rd edn)

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- 1997 ‘“Do I Like Them Too Much?": Effects of Oral History Interview on the Interviewer and Vice-Versa' *The Oral History Review* 24: 55-79

Internet Sources

- Australian Women's Archives Project 2014 'Rubenstein, Kim (1965 -)' *The Encyclopedia of Women & Leadership in Twentieth-Century Australia* available at <http://www.womenaustralia.info/leaders/biogs/WLE0613b.htm> last accessed 17 October 2016
- Brodsky J 'Joan Rosanove' *The Victorian Bar* available at https://www.vicbar.com.au/wba/joan_rosanove.htm last accessed 17 October 2016
- Falk B 2002 'Rosanove, Joan Mavis (1896-1974)' *Australian Dictionary of Biography* available at <http://adb.anu.edu.au/biography/rosanove-joan-mavis-11560> last accessed 16 October 2016
- 'Oral History and Folklore' *National Library of Australia* available at <https://www.nla.gov.au/what-we-collect/oral-history-and-folklore> last accessed 16 October 2016
- Rubenstein K and Morgan H c 2016a 'The Trailblazing Women and the Law Project: Interviews' *The University of Melbourne* available at www.tbwl.esrc.unimelb.edu.au/outcomes/interviews/ last accessed 16 October 2016
- c 2016b 'The Trailblazing Women and the Law Project: Methods' *The University of Melbourne* available at <http://www.tbwl.esrc.unimelb.edu.au/methods/> last accessed 16 October 2016