

8-6-2010

National Conference of Women's Bar Associations Keynote Speech Delivered by Drucilla S. Ramey, Dean, Golden Gate University School of Law

Drucilla S. Ramey

Golden Gate University School of Law, dramey@ggu.edu

Follow this and additional works at: <http://digitalcommons.law.ggu.edu/lectures>



Part of the [Law Commons](#)

Recommended Citation

Ramey, Drucilla S., "National Conference of Women's Bar Associations Keynote Speech Delivered by Drucilla S. Ramey, Dean, Golden Gate University School of Law" (2010). *Lectures & Speeches*. Paper 1.

<http://digitalcommons.law.ggu.edu/lectures/1>

This Conference Proceeding is brought to you for free and open access by the Faculty Scholarship at GGU Law Digital Commons. It has been accepted for inclusion in Lectures & Speeches by an authorized administrator of GGU Law Digital Commons. For more information, please contact jfischer@ggu.edu.

National Conference of Women's Bar Associations
Keynote Speech Delivered by
Drucilla S. Ramey, Dean, Golden Gate University School of Law
August 6th, 2010

I want to thank Sarah Crooks for that very kind introduction, and to say how delighted and honored I am to be speaking before this august group this morning. First, of course, I am compelled to note that we gather here at the end of a watershed ten days, one in which Elena Kagan has been confirmed to sit on what will be a three-women justice United States Supreme Court, one in which Proposition 8 has been held to unconstitutionally deny the LGBT community of equal protection under the law, and one in which the first-ever Asian American woman has been nominated to sit on the California Supreme Court, creating a first-ever majority of women on that Court.

Before I go any further, however, if I may take a point of personal privilege and introduce you to Golden Gate's wonderful President and my boss, Dan Angel.

Thank you, President Angel. As many of you may know, this organization was born of the initiative of visionary women, in this case, the Women's Bar Assn of D.C., who in 1981 called together a meeting of all known women's bar associations across the country, and held it at the ABA Annual Conference in New Orleans that year. By 1983, NCWBA was formally organized and elected its first officers and directors and today has over 50 women's bar associations (including our own California Women Lawyers, and 6 local women's bars across California.) NCWBA member groups represent approximately 35,000 women lawyers nationwide.

The founding of NCWBA is reminiscent of the origins of so many women's (and minority) bar associations. In California, for example, CWL was born in the early '70's at a State Bar Conference, where something or other outrageous was going on at the Conference of Delegates, so Joanne Garvey, then the first woman lawyer on the Bar Governors, or anything else in California, who was sitting there with several of her similarly outraged women friends, stood up and said, "On behalf of California Women

Lawyers, we object!” And thus was born CWL. I might add, that as a result of some Northern/Southern California issues, the decision was made to form a provisional board, and I, then a very new attorney at MALDEF, was drafted to represent the “South of Market”, that is, public interest- crowd—and became the first Provisional Second Vice-President of CWL, a distinction I don’t believe many here can boast of, and, along with all the other provisional officers, including a former showgirl from San Bernardino and a future Congresswoman from San Diego, held a two-day slumber party at the Sherman Oaks home of the Provisional President, Justice Joan Dempsey Klein. And thence was born California Women Lawyers, whose current President, the Honorable Nancy O’Malley is, as it happens, the District Attorney of Alameda County, and, I am consummately proud to say, an alumna of this very law school.

Women and minorities have, of course, come a long way, in the profession, judiciary and wider society since I entered law school in 1968. That was the first year that the door started to truly crack open for women in law, not coincidentally, I would suggest, because it was the first year men could not get graduate deferments for the draft, and this at the height of the Viet Nam war. (You do the math.)

Assuredly, the context has changed for the better in profound ways. Women are up from 3% of the profession in my time, to about a third of it; women judges who could’ve fit in a phone booth 40 years ago are now at 26% in the state courts 29% in the federal system; law school attendance came close to 50% in the early part of this decade, and women have long been well over 40% of associates at most large firms.

But, upon closer scrutiny, things aren’t necessarily lookin’ so good for the double X chromosome, or for people of color in the legal profession. Despite the heroic efforts of this organization, its dozens of affiliates and tens of thousands of women lawyers it represents, and despite the work of national diversity leaders like The Center for Women in Law at the University of Texas, or the many organizations striving to achieve racial and ethnic equality in our profession, we, the most powerful profession in the nation, are by far the most racially segregated in the nation. (At just under 12% minority, we make

even urologists look good.) Thus, while the number of minority matriculants nationally almost doubled in the ten years BEFORE 1997, the year of the passage of Prop 209, California's anti-affirmative action initiative, they have only grown a disastrous 2.2% in the ensuing **THIRTEEN** years, **all** of that attributable **solely** to Asian Americans and non-Mexican American Hispanics of Cuban and South American descent. Some of the finest public universities in the world, in heavily minority states like California, Texas, and Florida, and now, alas, Michigan, who had together produced thousands of successful minority lawyers who now lead in every walk of legal and political life, have seen their African American and Latino law school populations fall by 2/3's and 50%, respectively, never again to even approach anything like their pre-209 representation. And let's not even talk about Native Americans whose significant forward progress was similarly and abruptly halted.

As for women, consider these unfortunate facts: First, until this past year, the percentage of women entering law school has actually declined steadily since the 2002-03 entering class, from close to 50% down to the 46th percentile; Second, the percentage of women partners in large firms has risen only glacially, moving up exactly 4 percentage points in 15 years and stalling out at 16% of equity partners (and a dismaying 1-2% for women partners of color.)

On the corporate and political front, things aren't looking a whole lot better, and outside the ability of a couple of women to possibly buy some extraordinarily important elections in California, things are not likely to improve for us in the coming year. Only 15 Fortune 500 Companies are run by a female CEO, for example. Women hold only 16.8 of the seats in Congress (with 17 of our 50 Senatorial positions and 73 of the 436 seats in the house.) At the state level, the percentage of women in statewide elective office today is the lowest it has been since 1993 (at 23%). Women hold only 6 of the nation's 50 governorships, 4, count them FOUR of the 50 Attorney General positions, and 4 of the positions heading up the state's educational system.

The percentage of women in state legislatures has risen only 2 percentage points in over a decade, from 22.4-24.4%, and, at the local level, only 7 of the mayoral positions in the nation's 100 largest cities are held by women.

But back to our own profession, most indications are that this recession has not been, and will not be, kind to women or people of color, especially not to those in the part-time positions, as firms become even less accommodating to flexible schedules, nor to those who are "service partners" in the non-equity partner ranks, which are disproportionately female and minority. (Parenthetically, I would note that there is also serious concern that the movement of some large firms to eliminate the lock-step associate system, and instead create two or three broad categories of associates, will further accelerate the disappearance of women and minorities from law firm partnerships, due to increased subjectivity (always more subject to bias than clearly stated standards and evaluation) and increased early emphasis on rainmaking, opportunities for which have always and continue to be disproportionately denied to women and minorities.

A recent depressing survey of women partners by the Minority Corporate Counsel Assn, the ABA Women's Commission and the Project for Attorney Retention raises the specter that these numbers may well be dropping faster than the Dow. That survey, of around 700 women partners, established, first, that the overwhelming numbers of respondents indicated they had reached equity partner via a lateral move, rather than by direct promotion, and, perhaps even more troubling, almost 8% of those responding had been de-equitized, citing as the reasons the firm's desire to maximize profits per equity partner, their own difficulty in obtaining billing partner credit, and low billable hours.

That the extent of the problem is not one that will be easily sussed out has been made abundantly clear in the battle being waged right now to force the ever growing group of so-called "two-tiered" partnership firms to distinguish between equity and non-equity partners in their reports to the National Association for Law Placement about the gender and racial breakdown of their partnership ranks, statistics that are enormously influential with young lawyers seeking to choose among firms. Stanford Law Professor

Michele Dauber has most clearly demonstrated the two sets of books issue that seems to pertain in many two-tiered firms, whereby for purposes of reporting to the Am Law 100 or 200 surveys, a firm will report only on their equity partners, in order to maximize the all-important profits per partner figure., whereas, in reporting to NALP as to the racial and gender breakdown of their partners, these same firms use the combined equity AND non-equity partner totals, measurably improving their diversity stats, since women and minorities are generally overrepresented in the non-equity partner ranks.

At the behest of the National Association of Women Judges and other groups a couple of years ago, NALP was persuaded to change their questionnaire this past year to require firms to distinguish between equity and non-equity partners in submitting their demographic breakdowns, but then **immediately** reversed course when several large firms indicated they would withdraw from NALP altogether rather than provide this information. Following the subsequent substantial negative coverage in the press, and extraordinary work by NAWJ and the deans and others who objected, NALP has now indicated that it will, in January 2011, launch some kind of process for the collection of this data, though it is by no means clear whether there will be opt out provision or various obfuscatory strategems that will allow firms to evade the intent of this inquiry. (Parenthetically, Professor Dauber is examining the possibility that the two-sets-of-reports policy may be challenged as actionable ethical violations.)

Putting aside the partnership per se issue, the most recent National Association of Women Lawyers' study of the Am LAW 200, shows that the percentage of women at the upper- level decision making ranks in firms has actually fallen (although owing to BASF's wonderful Glass Ceiling initiative that is not true here); nationally, however, we constitute only 15% of the seats on governing committees of large firms, 6% of managing partners, and, with the retirement of San Francisco's own Mary Cranston from Pillsbury's helm a couple of years ago, you can now shoot a cannon through a mega-firm managing partners' meeting and not worry about hitting a single sister.

We should also read and weep with respect to the recent Third Circuit opinion disallowing a sex discrimination action by a woman partner, who, despite having worked for the firm for over 20 years, and having voting rights and profit share, alleged that in fact she should be deemed to be more in the nature of an employee, subject, as she was, to the control of the executive committee that actually ran the firm, and further alleging that women were paid less than men, that she was told by a male partner that a woman with children should relinquish her partnership and work part-time, and was told by another that the role of women lawyers was to prepare lawsuits for trials to be handled by men.” (I might note that the earlier-mentioned MCCA study noted that 55% of their women partner respondents indicated that they were occasionally or frequently denied their fair share of compensation as the true billing or origination partner, and 30 percent indicated they were harassed when they complained about it.)

White men not only overwhelmingly dominate among partners and the committees that equate with real money and power, but they also average \$66,000 more in draw than women equity partners; men are the highest paid lawyer in the largest firms 99% of the time, and are overwhelmingly the chief rainmakers (nearly half of the top firms, for example, had not a single women among their top 10 rainmakers). Calls to mind that Pat Buchanan comment several years ago that “Women will always make just a fraction of what men make, so long a America remains free.”

What is perhaps most troubling to me these days is the current and constant drumbeat of the “work-life balance’ theme, beaten into, and scaring young women law students and lawyers to death, at a time when many of them have nothing yet to balance, and this has coalesced with the increasingly fashionable so-called “personal choice” rhetoric currently in vogue these days to rationalize the brain drain of women from the higher reaches of the elite firms, a trend so exuberantly postulated and just plain celebrated by conservative pundits and *The New York Times* alike. Under this 21st Century version of a Nineteen-Fifties mantra, the reason that women are decreasingly to be found within the elite, powerful, monied equity partnerships, is that they “choose” instead to heed the siren call of motherhood.

The Times' Lisa Belkin, in an article several years ago, emphatically embraced this trend. Entitled, "Q: Why Don't More Women Get to the Top? A: They Choose Not To," the article considerably ups the ante by suggesting that it is women themselves who have done the movement in, and that mother nature made them do it. Its utterly unsubstantiated and potentially lethal thesis is that women have "chosen" to opt out of high-powered career trajectories, not because of profound and continuing patterns of conscious and unconscious sex discrimination consistently documented by groups like the Women's Commission and NCWBA's member organizations, but rather because of their biologically-determined, and societally beneficial, drive to drop out of work and tune in to children.

"I think some of us are swinging to a place where we enjoy, and can admit we enjoy, the stereotypical role of female/mother/caregiver," says one of Ms. Belkin's interviewees. "It's all in the M.R.I.," says another, arguing that different brains make different choices. Most disturbingly, an anthropologist informs the author, without backup, that her disinclination to forge ahead and climb a power structure "is one of the inherent differences between the sexes." Ms. Belkin further quotes with apparent approval this interviewee's breathtaking statement that, "At this moment in Western civilization, seeking clout in a male world does not correlate with child well-being."

Perhaps most alarming of all, is Ms. Belkin's statement that, "I don't want to take on the mantle of all womanhood and fight a fight for some sister who isn't really my sister because I don't even know her." How sisterly is THAT, Lisa?

"Biology is destiny" has, of course, been the battle cry down through the millennia of those seeking to deny women their basic human rights, not to say, in more recent times, their right to vote, own property, make contracts or, well, practice law. But this isn't Myra Bradwell in Illinois in 1872. If Ms. Belkin is right that now even the best and the brightest women are biologically driven to jump ship at the cusp of career success, presumably relying on their affluent husbands to soldier on and support them

indefinitely, why then should the men who continue to run our nation's principle economic institutions bother to keep hiring and promoting women? Why undertake all those costly and taxing efforts to eradicate sex discrimination in the workplace if biological determinism will lay waste to the results?

I, for one, prefer the perspective taken on such matters by my mother, a nationally prominent feminist endocrinologist, who wrote, "Of course your biology determines our ultimate destiny. It means if you have ovaries you'll never be a father, if you have testes you'll never be a mother, and if you're a beagle, you might as well forget about becoming the head of General Motors."

My Yale Classmate, courageous Boston District Court Judge Nancy Gertner, has had this to say about the "choice" rhetoric: "Twenty-five years ago," she says, "they told us it was nature. Women could not be lawyers or judges because of biology, and the imperatives of motherhood. Grind your own baby food? Of course. Bake cookies? Indeed. Breast feed forever? Absolutely."

"**Now** they tell us it is choice," she goes on to say. "But the woman's movement was about more than choice—a choice between untenable options. It was about *transformation*—it was about revolutionizing the workplace, with support services for families, with altered expectations for both men and women... This is not about private choice. This is a social problem; this is a problem of equality..."

Putting aside the reality that, as Leslie Bennett, put it in her book *The Feminine Mistake*, "A man is not a plan,.", the "choice" theory also presupposes a pretty much non-existent on-ramp back into the profession whenever the choosers feel like, or must, return to the fray.

Moreover, this focus solely on the "pull of maternity" ignores and leaves firmly in place the "push" side of this equation—the outright sex discrimination and pervasive gender stereotypes which continue to plague our profession (in one of my favorite

cartoons, the king and queen are sitting on the throne and she's saying, "Well, yes, but when a woman beheads someone, they call her a bitch" Or, take a look sometime at the Barlett's Quotations table of contents for women:

Women: all alike

Women: danger of her allure

Women; expensive to maintain

Women: frail, shifting, treacherous

Woman: illogical and trivial

Woman: her malice,

Woman: man's distraction and damnation", just to take a few.

. These often unconscious stereotypes combine with endemic institutional inflexibility, stigmatization of USE of flex and part time options, by men and women alike, disproportionately harming women, of course; they combine with the crushing tyranny of the ever-increasing billable hour, the scarcity of training, the highly subjective, vulnerable-to-bias systems of assignment, evaluation, and promotion, and, perhaps most importantly, the natural human tendency of the white, outwardly straight, non-disabled males at the top of the nation's major firms to seek out, mentor, will their business to, and generally to advance those with whom they feel most comfortable –younger white males who remind them of themselves when they were young, albeit not quite so good looking.-all these factors together work to marginalize women and people of color (and large numbers of the LGBT community and those with disabilities) from the informal networks, mentoring, training, and rainmaking opportunities that are the *sine qua non* to success. And the consequent absence of women from top leadership positions is a key factor in the failure of firms to devote their otherwise considerable problem-solving skills to even minimally accommodate the desire and necessity for lawyer-parents for more time to devote to family and children. As Hawaii professor Mari Matsuda has said, "The workplace that is inhumane for women who want to parent is ultimately inhumane. Period." But in our culture, it's the women who continue to have the primary childrearing responsibility and it's the women who leave.

Ms. Belkin's view to the contrary notwithstanding, I would suggest to you that the true revolutionaries in this saga are the people in this room and the leaders of organizations like NCWBA and their members, who try, as much as they can, to stay the course and who work every day to open up full and equal opportunity for all in the legal workplace. In fact, one could argue that the importance of women's organizations has never been greater, as we face the curious and counter-intuitive phenomenon that as the numbers of women lawyers increases, the average woman lawyer seems to have never felt more alone. Indeed, I believe that the happiest women lawyers I know are those who work within women's bars, women's law firm caucuses and others among their sisters who, together with their enlightened male colleagues, who are determined to forge new workplace templates, and who are providing the kind of life and career- enhancing mentoring so movingly depicted by the great Marian Wright Edelman, who wrote, in her luminous book, *Lanterns, A Memoir of Mentors*,

“All of my mentors,” she writes, “men and women of different faiths and colors, in their own way personified excellence and courage, shared and instilled a vision of hope of what could be, not what was, in our racially, gender, class, and caste-constricted country; kept America's promise of becoming a country free of discrimination, poverty and ignorance ever before me; and put the foundations of education, discipline, hard work and perseverance needed to build it under me.”

I like to think that as the Dean of my wonderful law school, I work with my colleagues every day to provide our students with that same legacy. How much more rewarding life is when we fight alongside institutions like this one and pioneers like District Attorney Sarah Crooks, and the other amazing women in this room to advance the cause of equality in our profession, in the judiciary and in our society for those who have been so grievously barred at the gates. The time has never been more propitious, nor the stakes so high. (Importance of women at the top: mom and the slide??)

I'd like to conclude with some words of my mother's in a book called, Letters to our Children, which I believe so much embody the spirit of NAWBA, its forebears and, hopefully, all of our future:

“At this stage in my life,” she wrote, “I don't do much agonizing about mistakes I may have made. It is not the stupid things I did that disturb my sleep. It's the things I didn't do: the words I never spoke, the little kindnesses I omitted because I had my eyes on a goal and I was running so fast to get there. These are my deepest regrets.

The most painful memories I have are of my mother's pain because she couldn't buy me that special dress for the prom, because I had to work at menial jobs after school, because I had to wear unfashionable castoffs from my “rich aunt.” I never told her how unimportant all those things were to me compared to the priceless gifts she had given me of unwavering love and confidence. I thought she knew.

And by the time I learned the needs for words, there were no longer ears to hear. She was dead. I learned too late that words can be weapons or they can be life enhancing. I have in my life received honors and honorary degrees, and each time I stand up there to receive the accolades, I feel my mother is beside me, saying, “See, Stella, I told you to get an education.” And I say, at last, “Thank you for everything you gave me.”

If I could leave you with any advice, it would be to speak words of caring not only to those closest to you, but to all the hungry ears you encounter on your journey through a cold world. Stop on that mountain climb to bring along those less agile or well endowed. It will make the view even more beautiful when you get to the top.