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Women and the Law: How Far We've Come and Where We Need to Go

Pace Law School, October 24, 2008

Michelle S. Simon*

Good afternoon and welcome to the program on “Women and the Law: How Far We’ve Come and Where We Need to Go.” As Pace Law School’s ninth Dean (and the third female Dean, by the way), I am so pleased to introduce this program, which is co-sponsored by the Pace Law School Center for Career Development, our Women’s Association of Law Students and the Westchester Women’s Bar Association. Pace Law Review is also publishing a book review issue on Women and the Law, so as you can see, this topic is very much on our minds.

I would like to talk for just a moment about vision. Vision—in the most basic sense—is the ability to see what is in front of us right now. In a broader sense, vision is the ability to see where we have been and where we need to go. And while we celebrate women’s past and future accomplishments, we should also be mindful that the vision is not entirely rosy.

How far have we come? Very far. How far do we need to go? Still very far. And the terrain that we need to cover is in some ways more uncertain than ever before. Equality jurisprudence has secured women’s place at the table. Luckily, blatant and overt discrimination occurs far less often than it once did.

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But the obstacles that women in the legal profession face today may be just as—if not more—formidable. We work in times of great financial uncertainty, extraordinary disparity between the rich and the poor, and a deep misogyny that sometimes feels like it is in the air we breathe. The same air that we know is full of feminist theory, female political candidates and a strong sense that women have that their choices are not determined by their biology.

When I graduated from law school in 1981, my class was approximately twenty-five percent women. As a group, I would say that my classmates and I felt that all doors were open to us. I was the Senior Lead Articles Editor of my law review and near the top of my class. There was absolutely no question that women could be and were hired by big firms, small firms, courts, corporations—just about anywhere. We walked in the footsteps of women fifteen to twenty-five years our seniors. We were not the “very firsts.” Others—the groundbreakers—had been the first. We walked in their footsteps and benefitted from their professional examples.

And so we have come very far. Women now are more than fifty percent of law students nationwide, and women lawyers occupy leadership positions at every level of the bench and bar.

It is not enough. I knew that women did (and do) suffer from discrimination and stereotypes—the most senior woman in the room is still assumed to be something other than the attorney in charge (let alone a law firm partner, or even rarer, the Dean). In the 1980s, I was the first associate in my firm to become pregnant, and no maternity policy existed. In the 1980s, I often heard women say, “The next generation of women will have it so much easier.” But it is wrong to pin our hopes—and justify existing inequality—in the name of the next generation. How far do we need to go? Very far. And that journey must be taken up with new vigor and enthusiasm.

Recent American Bar Association statistics suggest that the average estimated salary of women in the legal profession is approximately \$72,000 whereas the average salary for men in the legal profession is approximately \$93,000.¹ Yes, women

1. Am. Bar Ass’n, Comm’n on Women in the Profession, *A Current Glance at Women in the Law* 4 (2008), <http://www.abanet.org/women/CurrentGlanceStatistics2008.pdf>.

have an unprecedented number of choices in shaping their legal careers. There is full-time, part-time and flex-time work. Law firms go to great extremes to develop and promote “family-friendly” policies. We see women in the courtroom and the classroom. But we have much work to do and each of us does it every day.

Almost twenty years after Arlie Hochschild published her groundbreaking book, *The Second Shift*,² women still are more likely than men to work two or three “shifts”—their paid employment outside of the home, the work of running and maintaining a household, and the work of caring for the young and the old.

One of the buzz phrases in academia these days is the Heisenberg principle, which—to spare you a few hours of analysis—stands for the notion that observation changes the thing that is observed. My own take on the Heisenberg principle is this: Observation does indeed change what we observe. But from observation must follow action. We must make change based upon what we observe, which, of course, has already been changed by our observation.

Today’s program gives us the opportunity to observe what changes need to happen, how we can make change real and how we can make real change right now.

Thank you.

2. ARLIE HOCHSCHILD & ANNE MACHUNG, *THE SECOND SHIFT* (2003).