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Releasing Excellence: Erasing Gender Zoning From The Legal Mind

SALLYANNE PAYTON*

Conferences such as this one always remind me of how dramatically the world has changed for women in the law over the past twenty or so years. When I entered Stanford in the fall of 1965, there were ten women in our class of roughly one hundred sixty; the admission of such an unprecedented number of women, we were told on arrival, had been greeted with disapproval by a number of faculty members. Nearly twenty years later, the classes at most metropolitan area law schools are half female; women lawyers are moving up within the profession; and law has become a profession of choice, perhaps *the* profession of choice, for able young women.

At this juncture, the question is not whether women will have a decisive impact on the legal profession, but what they will make of their opportunities. This is what I want to talk about today: what difference can these new women lawyers make, for themselves, for the profession, for women as a class? I say “new” lawyers in order to emphasize the fact that women did not begin to apply in large numbers for admission to law school until the late 1960’s and early 1970’s. The presence of a substantial female presence in the profession is a recent occurrence, and consequently, the vanguard of women has only within the past few years begun to reach the partnership level in law firms or positions of seniority in the public sector. But the process is inexorable — the ranks of law firm associates are full of women, as are the law schools, as are the law school admissions office files. So the question is not whether something momentous is occurring but what the momentous occurrence will turn out to be.

I think it fair to say that very few people would have predicted, before the actual event, how congenial as an enterprise women would

*Professor of Law, University of Michigan Law School, B.A., 1964; LL.B., 1968, Stanford University. This address was presented November 11, 1984, at the “Women and the Law Conference” at Indiana University School of Law — Indianapolis. The author would like to thank Patricia D. White for helpful comments on the published version of this address.

find the study of law, how well they would do at it, and how rapidly the meritocratic elite of the profession would absorb, in accordance with what rapidly became nearly gender-blind hiring policies, the women emerging from law schools. I can appreciate that there may still be substantial barriers to the entry and advancement of women in the less cosmopolitan areas of the country; but in the major metropolitan areas one need fear no longer, I am told, the forms of outright misogyny that were still common as recently as a decade ago. I am not suggesting that discrimination on account of sex does not persist in subtle form, only that the transition from explicit exclusion to pervasive inclusion, even on somewhat less rewarding terms than those ordinarily accorded to men, has been accomplished with a speed and grace that few would have thought possible. Most intriguingly, law may be the only male-dominated profession in which this has occurred. Women in medicine have reported greater difficulties, and women entering the business world have not thus far achieved anything like the numerical presence or professional visibility of women in the law.

Why has this occurred? Probably not because male lawyers are nice men who want greater diversity in the profession, though many of them are and do. The truer pull is that of competitive reality: women succeeded in law school, which means that they had talent as measured by the customary meritocratic standards of legal academia. It would have been inconsistent with the meritocratic ethos of the profession, as well as economically irrational, for law firms to have preferred less talented males to more talented able females, particularly when law firms are trying to hire the best available brains to do legal thinking and writing in a competitive environment. An act of discrimination may come back to haunt it if its competitor hires the more capable person and uses her against the firm. I would argue that the combination of meritocracy and competition in law has been to women's benefit.

So women stepped out of law school into jobs because they could do the work, and firms could not afford not to have them. This observation only pushes the question back one step further. Why is it that law work proved congenial? It was not supposed to have been. Prior to the time when women started coming to law school, the law, considered as an intellectual discipline, was considered quintessentially masculine. The mental skills involved in doing law work were thought to center on logic, rationality, and precision. High praise for a lawyer or judge was to be called "toughminded." Litigation was combat. The ends of the law were described as law, order, justice — masculine goals the achievement of which required the use of force. While it was never quite suggested that other mental qualities were missing from the world of law — the existence of "equity" and the central role of the jury in factfinding being constant reminders that there was more to law than rule application — it was made quite clear that the lawyer himself (there was no herself in this picture) was to be the smart, tough Hessian, necessarily male.

Experience with women in law school uncovered the fallacy in this view of the world. The fallacy is of a prevalent type — that is, when one has always seen characteristics A, B, and C in combination with characteristic P, one may think that P is part of A, B, and C, or necessary to them. One of the purposes of blind grading, letting A, B, and C stand for an ability to reason and argue, and P stand for the characteristic of being male, is to ensure that a professor who is looking for A, B, and C is not confused by the presence or absence of P. Blind grading revealed that women as a class could do just as well as men as a class in law school — that is that whatever characteristics A, B, and C that law professors were testing for were not correlated with P. This was a revelation.

Revelations continued to pour in. It turned out that just as women had been good law students they became good lawyers. The true tests were in the courtroom, the scene of what had been thought to be a gladiatorial combat. Women did fine as trial lawyers, and not just as softhearted defense counsel but as prosecutors. Women also did fine as tax lawyers and antitrust lawyers, two fields also that had had masculine images. Within a matter of a few years, there was virtually no field of the law in which the mythology of female intellectual incompetence and personal incapacity had not been dispelled.

In the process, a good many male perceptions have changed, and so have a good many male biographies. Male lawyers now have women lawyers as friends, colleagues, and superiors. Some of them have women lawyers, or other women professionals, as spouses. And now they can have aspirations for their daughters, even be able to see them perhaps as their successors. That is real change. Of course the change is largely confined to the environment of the elite, but that should not make us denigrate its importance. The male lawyers who are accommodating the presence of women in their professional lives are the males who determine, in the course of deciding what the law is, what other males should be required to do in order to accommodate the females coming into *their* environments. Let me share with you an illustrative story. Just a few months ago, a proudly conservative male lawyer from a midwestern city mentioned to me that one of his current tasks in administering his law firm was to figure out how to make it possible for the tax partner to bring her newborn child to the office in order to breast-feed it. He was anxious to accommodate her because she was enormously respected within the legal community and had several offers from competing firms. Moreover, his attitude was not resentful, but supportive. That lawyer may be less than fully sympathetic to the male business executive who does not see the need to adjust his own historic practices to accommodate his women colleagues and employees. The lawyer may even be able to give the businessman some helpful advice about how to do it. Large changes come from just such conversations about small matters.

There is one more general beneficial effect of having women in the

law that I would like to mention. That is that the executive class of American society, in both the private and public sectors, is becoming accustomed to taking its legal advice from women. That means that male executives are acquiring the habit of accepting, deferring to, and paying high fees for, the advice of women on matters that are crucial to their own ability to succeed. It is hard to believe that there is not a positive spillover effect onto women entering other professional areas from the fact that women have done so well so visibly in law.

This kind of change is of course gradual, not revolutionary; and its cumulative effect can only be perceived as people move through the pipeline bringing with them experiences and expectations shaped by the worlds of the 1970's and 1980's rather than those of the 1940's and 1950's. What is important to see is that women are not dropping out of the pipeline; they are advancing, more or less in accordance with expectation, into senior positions in those professional institutions that pride themselves on being, roughly speaking, meritocratic. That is not to say that females do not still face difficulties: the cohort of women entering practice now will still suffer the burden of being pioneers, and the culture still systematically undervalues whatever work women do. But the legal profession is the vanguard of integrating women into a formerly male workforce, and lawyers are collectively as thoughtful and open-minded a group of males as exist in our society. If I had a daughter, I would encourage her to go to law school.

I would, moreover, try to convince my hypothetical daughter that she is part of a great moment in history. This epoch marks the first time that it has been positively good to be female, the first time that women have been able to aspire to the full range of opportunities and rewards available within the society. It is even a time when it is good to be a black woman, at least of the middle class, which is truly a dramatic change. And I would argue that the ascent of women into professional, technical, and managerial elites will bring in its train a shift upward in the evaluation of numerous attributes, chiefly clustered around listening and nurturing, that in the dominant culture are associated with femaleness. This shift is already visibly in the making, and we can expect to see it accelerate as the number of women in positions of some kind of authority reaches a critical mass. It is happily the case that lawyers and the lawyering function are in the forefront of this shift of perception. Let me first talk briefly about the idea of gender that has historically prevailed in the dominant culture, then discuss the lawmaking function in terms of gender typing.

While the physical differences between men and women are biologically standardized, gender differences — that is, the patterns of comprehensive role differentiation between men and women, which affect their respective activities in childbearing, work, religion, governance, and so on — are social constructions that vary from society to society. Gender roles have to be learned; one must learn the social significance of one's body type and the behaviors that are socially approved for persons of

that body type. Moreover, the rules have to be enforced; an untold amount of early socialization goes into instilling and enforcing gender role differentiation in the young.

In the dominant culture of the contemporary West, the gender line has been fixed in such a way that some attributes of mind and character have been regarded as intrinsically female, and therefore are taught to and reinforced in females, and some are regarded as intrinsically male, and therefore are taught to and reinforced in males. You know the list as well as I. Males are thought and taught to be rational, females emotional. Males are thought to be logical, females intuitive. In terms of character, males are supposed to be dominant and aggressive, females passive and submissive. Males are supposed to be authoritative, females deferential. Males embody the virtues of individualism, females of community and connectedness. Males are hard and dispassionate, females sensitive and compassionate, and so forth. This is what I like to call mental gender "zoning": the culture tends to enforce certain uses of some minds and other uses of others, and historically has punished those who have violated the protocols.

Because I am not a product of the dominant culture, I am frequently startled to encounter the dominant culture's zoning practices, and am not at all inclined to abide by them. A bit of autobiography may be in order here, just to place the problem of gender zoning in a larger context. During the period from roughly the mid-1950's, when *Brown v. Board of Education* launched the drive for racial desegregation, until the passage of the major federal civil rights legislation in the mid-1960's, the nation debated, out loud, the terms on which black people, or "Negroes" as we were then called, were to be allowed to do such ordinary things as eat in restaurants, go to school, have jobs, buy houses, and vote. Among the strongest voices in the debate were those of Southern whites, who tried to explain to the Northerners that Negroes were not yet ready for full citizenship, being dependent, passive, affectionate, irresponsible, and emotional. Our most striking characteristics were said to be our capacity for affection and loyalty (these remarks were generally accompanied by references to family servants) and our childlike delight in things sensual and musical (this was before the Watts riot). What we needed was to be under the paternal guidance of our best friends, the good white people of the South.

You may remember the general derision that greeted the expression of antebellum views such as these, particularly when they were accompanied by the televised spectacle of Southern blacks in peaceful and prayerful resistance being beaten, cattleprodded, and firehosed by Southern sheriffs and their men. The argument in favor of the racial zoning practices of the South was answered, after much struggle, with the Civil Rights Act of 1964 and the Voting Rights Act of 1965.

With these expressions of national consensus safely tucked under my psychic belt, I entered the Stanford Law School in the fall of 1965. There, sitting in my law school classes, I learned for the first time that

women were dependent, passive, affectionate, irresponsible, and incapable of thinking. That their most striking characteristics were their capacity for affection, their strong bonds to their families, their delight in things sensual and emotional. That what they needed most was to be under the sheltering guidance of their best friends, the men in their lives. All of this was crystallized in aphorisms such as “the husband and wife are one, and that one is the husband,” and was enshrined in numerous common law rules that I was required to learn as truths for the purpose of supplying correct answers to law school examination questions. There were large chunks of my legal education that I could treat as pure anthropology, as my first real occasion to listen in on the messages being transmitted among males and females of the dominant culture. Unfortunately, the gender zoning system was reflected in law firm hiring practices (remember, this was 1967-68) but I escaped the worst effects of it because, as several hiring partners told me, they did not want a woman but were so happy to get a black that they would overlook the fact that I was female.

Fortunately, within the space of a few years, the women’s movement began and the women in law school started to challenge the dominant culture’s gender zoning practices, both by attacking the most misogynist ideologies frontally and by demonstrating through their academic performance that women’s exclusion from the legal profession could not be justified on any grounds having to do with quality of mind.

Now that the cognitive dissonance has impaired the validity of the old gender division between styles of mind, what should we expect to see happen? Will the gender lines be redrawn in a different place, or will they be erased completely? Is it possible that an aptitude for thinking will become a gender-neutral characteristic like an aptitude for gardening or making music? We seem to be headed in that direction — led, by the women lawyers.

The reason is that the kind of mind required for good legal thinking has a balance of characteristics drawn from both sides of the traditional gender unity line, and reflected in legal institutions. A few moments ago we were noticing that women, socialized normally in accordance with conventional gender zoning, did well in law school right from the first. This fact is really quite suggestive. The women who went to law school in great numbers in the late 1960’s and early 1970’s, and who keep coming, are in no sense freaks. They are the daughters of the same families who send their sons to law school. They have been socialized into the old system of gender differentiation, and they behave mainly in accordance with conventional gender expectation, somewhat modified to suit their new roles. These women are doing fine in a profession with a style of mind asserted to be macho. Why are the women doing so well?

One answer is that aptitude for coherent thinking is not a male monopoly; females in the dominant culture have had to be taught to restrain their intellectual development in the interest of appearing to be

submissive and therefore attractive. The amount of effort that has had to be devoted to this critical piece of socialization has been a longstanding clue that the mental zoning practices in the dominant culture have been inconsistent with underlying reality, which has been straining against them. In law school, women broke through decisively.

Another answer to the question why women are doing so well in the law is that common law decisionmaking as an exercise of mind is comprehensive and therefore transcends gender zoning. The common law is not built on logic and rationality alone, but on perception, intuition, feeling, judgment. Although the legal profession has traditionally been comprised of males, and therefore has had a masculine cast and mystique, the actual mental functions of good judges and lawyers (including law professors) cannot be described in terms restricted to those on the short list of the most “masculine” habits of mind.

Consider for a moment the central event in the common law system, which is the individual litigated case. The mental image one forms immediately is of a courtroom: a judge, seated on “the bench,” which is a massive, raised desk physically separated from the rest of the courtroom; a jury, perhaps, seated in an enclosure, called the “jury box”; a witness seated, testifying on the stand, which is an enclosure with a single chair in it, close to the judge; two tables facing the judge that are the opposing counsels’ respective bases of operation; and behind the lawyers’ tables, the spaces for the public.

What kind of institution is this? It reeks, of course, of authority — the authority of the sovereign embodied in the presiding judge to declare what the law is, the authority of the community embodied in the jury to decide the justice of the individual case, and the authority of the community to come see and hear what is transpiring in the courtroom. But it is a special type of authority. It is a kind of authority that does not speak until it is asked to speak. It is thus essentially passive. It is an authority that does not control what it will speak about, but is required to speak about everything brought to it, if only to decide that it will not speak. It is thus receptive. It is an authority that is required to listen before speaking, and its speech, when it comes, is required to be informed by what it has heard. It is thus expected to be understanding. Finally, it is an authority that has at its own command no instrument of force to carry out its will, but rather must rely on the executive officers of government to enforce the law. It is thus institutionally dependent. Passive, receptive, understanding, dependent — does this list of attributes sound familiar? The distinctive institutional characteristics of the judiciary lie on the female side of the gender zoning boundary. And it is interesting, culturally speaking, that the more active, aggressive, dominant branch — the executive — is required in our system of government to be restrained by the judicial power, to operate only “under law.” Even the legislature, which is the seat of theoretical sovereignty, must yield to the judiciary’s view of the Constitution.

It may also come as no surprise that this judicial institution embodies

the virtues of connectedness and many of the values of the community. The common law has historically protected expectation; it is founded on continuity; it looks for the fundamental principles that underlie the social order. The court claims to speak not in the voice of its transient personnel but with the voice of the best wisdom of the whole people. It is also worth noting, as an aside, that the visual image of the judge resonates with the underlying ideology. The judge is a robed, seated figure, an embodiment of the law whose specific human form is rendered irrelevant to the exercise of authority, which is in the law, in the institution itself. For all of its masculine mystique, the judiciary is not a macho enterprise.

Now what of the lawyer? The gladiator, the hired gun. But maybe not. Perhaps, better, the playwright, producer, director, and on-stage narrator of a theatrical presentation. Think of what the lawyer actually does. Let us take a simple scenario. The client appears in the office with a story — for example, that she took her car to a mechanic who purported to fix the brakes, for which service the client paid. As the client was driving home, a block away from the mechanic's shop, the brakes failed and the client ran into a pole. The client wants to sue the mechanic. The lawyer must decide whether the client's story can be told to a court in such a way that the court would decide in the client's favor. How does the lawyer find out what the court would do?

The lawyer looks into the books of stories that the courts have published to find those that are most similar to the one that the client is telling. If some of those stories have happy endings for persons in the client's position, then the lawyer tells the client that there is a chance of winning. If some of them have unhappy endings, the lawyer has to decide how to tell this client's story (through witnesses) in a way that makes it appear similar to the cases in which there were happy endings and unlike the cases in which the endings were unhappy. Along the way, the lawyer looks at the justifications that the judges have been giving for believing some stories rather than others, or for preferring some decisional principle over others, and tries to devise ways to tell the client's story so that the judges will find for the client. The story that will be told in court, then, is not the client's version of the story but the lawyer's version, refined to appeal to the particular audience who must be persuaded by it.

The lawyer has also to tell another kind of story, which is about the law itself. Since the common law moves forward on the individual case, disavowing any intention to bring to fruition a master plan for the development of the law, making a legal argument in a case is a connect-the-dots exercise. The dots are the "facts" of previous cases as narrated by the judges in their opinions; the connectors are the legal rules and principles that the lawyers use to explain why the dots should be connected in one way rather than another. Looking at the dots without the connectors is a little like looking up at the sky at night without the benefit of a star map; looking at the dots with the connectors is like having

a map, except that the process of litigation is one in which the two sides draw the map differently — may even position the dots in somewhat different places — and ask the court to choose. In the end, the court may position the dots itself and decide what connectors to use. I use the analogy of the star map because, although the stars are real, the map is a human construct. What, for example, does it mean to say that a star is part of the “Little Dipper,” or, to change maps, that Venus is in the seventh house?

To draw out the analogy without, I hope, straining it, under the common law case method the process of deciding what the law is, as distinct from disposing of the dispute between the particular parties, is a mapping exercise in which the various mapmakers try to decide how the dot ought to be connected to the various patterns to which it might plausibly be thought to belong given the mapmaking conventions in which the courts are operating. The conventions are embodied in techniques of legal reasoning; the patterns are established by the fabric of legal doctrine. Courts must think about whether extending various possible connecting lines to the dots at issue in the particular case is possible within the logic that governs line-drawing within the system, whether such extensions are plausible given the substantive premises explicit in the particular lines considered as justificatory principles, and whether the contours of doctrine that would emerge as a result of placing the dots of the particular case in one pattern rather than another are consistent with some underlying perceived reality or legitimate aspiration, so that the map being drawn is an appropriate representation of the world that is or that is to be brought about. It is no wonder that judges find it easier to agree on the description of the location of the dot — the outcome as between the parties — than on the trajectories of the connecting lines or what the contours, or the overall pattern of the map, should be.

The lawyer who asks the court to decide a dispute makes himself (we will stick with the masculine usage for just a moment) a party to the great mapping exercise that is common law reasoning. He must show the court why the dot that is this case should be placed in a position that is favorable to his client’s interests as a matter of justice in this case, and he must show the court where the doctrinal lines can be drawn that will make a decision in favor of his client consistent with the premises underlying the lines and with the logic of patternmaking in the system. He may also have to show the court that placing this dot in the particular location for which he is contending will not lead to undesirable extensions of doctrinal contours that the courts might not favor. This is no mean task, and it requires more than an ability to manipulate rule logic. Providing a legal rationale that satisfies the court’s need to maintain standards of consistency and coherence is necessary, but not sufficient. The court needs to be persuaded that the law to be made, as well as the result to be reached in the particular case, is right. Indeed it may be impossible for the judge to form an opinion on the

justice of the case without deciding where this dot belongs on the map, which may require prior argument about how previous mapmakers have treated dots of this sort. The argument over mapping gives the judge a context, a set of alternative perspectives from which to view the dot itself.

And so the lawyer makes up a story about the law out of the previous cases, weaving together the facts and reasoning of the judges into a narrative that cries out for the next episode to be that this client wins. What gives force to this narrative about the law, as distinct from the one about the “facts,” is that the narrative about the law is one about the judges themselves. The lawyer tells the judge a story about what the judge’s predecessors, peers, and superiors have done in like cases — what facts and issues were presented to them, how they arrived at their mapping decisions, what their views were on the nature of the realities of situations of this type and what role the law might play in affecting or improving them, and so on. The lawyers are collectively the medium through which judges talk to one another across jurisdictions, across space, and across time.

The heart of the craft of lawyering is thus of a piece with other literary crafts. Designing legal stories and explanations may require some high-stepping logic, and it is surely necessary to know what the legal rules are in order to know what stories it is possible to tell and what principles it is possible to put forth, but the essence of the lawyer’s craft is to be able to predict and influence the way in which the stories and principles are likely to be received by judge and jury. Logic, rationality, and a passion for intellectual order are essential to the lawyer’s art, but the good lawyer needs as well a feel for the weight of the case, for how law and policy in an area are evolving, for how the client’s story would play to a judge or jury, for how a particular judge would be likely to respond to the issue or the parties, and for a vast array of other intangible factors that enter into the management of a law case. The mental activity that is required for the practice of law demands an engagement of the whole mind, not only the preoccupation with logic that is associated by tradition with masculinity.

We have now considered the court as an institution and lawyering, or at least trial lawyering, as an intellectual art. Let us consider briefly the nature of judging. For the sake of simplicity, let us imagine a bench trial, in which the functions of trier of fact and decider of law are combined in a single individual and therefore in a single mind.

The judge is required to sit still and listen. In order to be a good judge, he must also hear. He must hear what the witnesses are saying and what they are not saying. He must decide which stories are credible, which witnesses most reliable, which versions of events are, all things considered, most plausible. He must compare the stories being told by the parties in this case with other stories told by other parties in other cases, at least as described by the judges who wrote opinions in other cases, and he must decide whether or not he agrees with the versions

of reality endorsed by those other judges. If he agrees with them, he must decide this case in a way that makes its story consistent with previous stories of the sort; if he disagrees with previous judges, he must formulate a plausible alternative view. He must decide how to classify this story in accordance with his considered view of reality and he must be able to fit his preferred story, and the reasoning that supports the result that he prefers, onto the greater legal maps being made by the cumulative efforts of thousands of other judges. In order to do this well he, too, must have a sense of the weight of the story, where it fits into his notion of the community's sense of justice and right conduct, what ordering of principles will be in accordance with the best interests and considered best judgment of the social order as he understands it.

When he has pondered the justice and the reason of the case, the judge issues an order disposing of the particular case, and he writes an essay describing the facts of the case as he finds them to be and announcing the principles upon which the case was decided. The "law" that he announces is not an order addressed to the world; it is simply an explanation. The essay goes into one of these large books of essays called case reports. It will be read as a record of an intellectual event in the life of the law — for what it says and does not say, for the most that the words describing rules and principles might be taken to mean, and for the least. The rules and principles, the justifications themselves, will be read in light of the story that the judge has recounted, which will be understood to have shaped his view of what outcomes were in accordance with justice as well as legal principle. The case will be laid beside others to see what system of rules is emerging, what stories are being told and believed, what coherence, logical and perceptual, is being created in this area of the law. The work of the judge lives as intellectual product. It will have some authority of office, but over time it will shine or wither depending upon the coherence of its vision and the soundness of its reasoning, as perceived by the judge's peers, superiors, and successors, in a process of testing and reasoning that is fundamentally gender-blind.

What does all of this mean for women coming into the law? First, although my account of the institutions and people of the law was, as you doubtless noticed, schematic and idealistic, the fact is that legal reasoning and lawyering do not require any particular mental, and certainly no physical, characteristics that are inconsistent with the basic socialization of many women. Women will continue to suffer some discomfort for some time during this period of transition, which may last another generation; and women of the dominant culture will have to develop plausible womanly styles of exercising authority and responsibility; but the day is plainly in prospect when the lawmaking function will be in the hands of senior women as well as senior men.

Second, the entry of women into the law makes it possible, as I noted earlier, for the gender line to be erased from the thinking function. Indeed, the very proposition that logical, rational, "scientific" thinking

can be separated from values, feelings, intuition, and the aesthetic sense is being abandoned by scientists themselves. The new wave of investigations of the human brain and mind have shed great light already on the workings of human cognition; the dualisms that have in Western culture divided mind from body, intellect from feeling, and logic from intuition are being discredited. It may be some time before the popular culture catches up with the scientists, but the gender differentiation roles that purport to divide males and females along these same lines cannot long survive the demolition of their ideological bases.

I hope, however, that this is not all, because the fact that some women will be more able in coming years to move into positions of responsibility and authority does not necessarily yield a benefit to the great majority who will continue to spend their lives bearing the burdens of subordination. The move of women into the professions has made only a miniscule contribution to the overall economic status of women; moreover, since women are not in any sense a community, it is not plausible to think that gains for some women will be shared by all women in the way it is possible to believe that economic gains for individuals in *X* ethnic group constitute benefits to "the *X* community" as a whole. And the erasing of inappropriate gender lines will not come about in our lifetime. Neither will the law or society change in ways beneficial to women except in response to the vigorous efforts of women themselves.

If women lawyers are going to make a difference for women as a class, then, we have to work at it. Some are working hard at it already, doing what lawyers arguably do best, having made service to women the organizing principle of their careers. We all owe an enormous debt to the women who have forced the public to confront the pervasiveness and subtlety of gender discrimination, who have made sexual harassment a violation of women's rights in the workplace, who have moved the practice of wifebeating out of the shadows of family privacy, who have called out the truth of rape as hostile attack rather than as uncontrollable excitation provoked or invited by woman the temptress. Many of the women who have devoted themselves to bringing about changes such as these are lawyers; they are our heroines; they deserve our gratitude and support; and they need to know that we are there when they need help. Great moments in history ride on the energy, intensity, and sacrifice of individuals. Don't be a spectator or a free rider; go for your moments. You owe them to your daughters and granddaughters.

Change is made of small moments, however, as well as large ones; modest revisions of perception help prepare the way for large shifts of perspective. The question is what we can all, every day, do to make this life a little better for women. That is a question that you will have to answer for yourselves, but let me give you my perspectives on the inquiry, particularly as it pertains to what lawyers are especially good at doing, which is telling stories and making arguments.

Stories are everything. People think in stories; theories and principles

are megastories, repositories of distilled stories. The law moves forward on stories. What is a case but a story? What is an argument but a story? What do lawyers do? Tell stories. What do judges and juries do? Listen to stories. The common law adversary system is built on the proposition that everyone ought to have the right to tell his or her story, and to argue about what the law is or ought to be, and to be taken seriously.

It should come to no surprise, therefore, that the law changes as the stories brought to the courts change, as the judges are forced to think about new disputes raising new issues. One major way to change the stories is to change the identity of the people telling them, both lawyers and clients. If there is a single factor that contributed more than any other to the explosion of legal change in the 1960's and 1970's it was that people who had never been heard from before — ethnic minorities, patients, clients, and consumers, welfare recipients, prisoners, women, schoolchildren — gained access to committed lawyers who could tell their stories in a way that made sense to judges. It is no surprise that those who wish to reimpose silence on the powerless seek to close off their access to the courts, to deprive them of the feeling that they have a right to be heard, or that anyone in authority cares to listen to them. I do not mean to endorse everything that has been done by courts and lawyers in the name of promoting equity; I only mean to point out that great social change can be achieved, or at least helped along, by people who can help the people in whose image the society is made to see the realities experienced by others.

For centuries now, women's voices and women's realities have been entombed in silence. Think about it: all of the official versions of reality in this society (and not only in this one) are made by men. It is male perceptions, male feelings, male patterns of behavior, masculine preferences and needs, that account for everything from the shapes of buildings to the shapes of careers. Male patterning, conscious or unconscious, is implicit in much of this culture, but largely by default, there being no female patterning to challenge it. I confess that I do not know what that female patterning might look like; but I am quite certain that we will never know until the female voices in this society succeed in telling stories about female realities that the female pattern, the female way of apprehending the world, becomes intrinsic to our idea of how the world works and how things ought to be.

Some of the people best situated to discover, or uncover, this women's reality, and to bring it into the body of official scripts, stories, and megastories by which we authoritatively pattern the world, are seated in this room. You are the women who straddle the mental gender zoning boundaries of this culture. You are the women who understand both realities. You are carrying the balanced, or potentially balanced, minds of Western culture. And there are enough of you, flooding out of the professional schools into the corridors of authority, to make a difference in the way in which the society perceives itself and the world around

it. If you use these minds well, you can make this world better for your sisters who do not have your gifts, your training, your access; and I do not hesitate to say that what is good for women is good for all of us, since women are the fulcrum of humankind. All that is required of us is the will to notice, and the willingness to speak. It may be the greatest gift that this new generation of professionally trained women can make to this culture.