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*Diversity in Legal Education and The Legal Profession: A Symposium  
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### Deaning in a Different Voice: Not the Same Old Song

Camille deJorna

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## DEANING IN A DIFFERENT VOICE: NOT THE SAME OLD SONG

Camille deJorna\*

### I. INTRODUCTION

#### A. Questions

How many of you believe that a woman is as capable as a man?  
How many of you believe in equal pay for equal work?  
How many of you would vote to strike statutes that discriminated against women?  
How many of you believe a woman could be president?  
How many of you consider yourselves feminists?

Today, for some feminist means “not feminine,” but for many people feminism is about equity. I would like to begin with a definition of feminism from my mentor, Gerda Lerner, the former Robinson Edwards Professor Emerita of U.S. Women’s History from the University of Wisconsin-Madison.<sup>1</sup> Gerda established the nation’s first graduate program in women’s history in 1972 and founded the doctoral program at Madison.<sup>2</sup> Her works, *Black Women in White America* and *The Creation*

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<sup>1</sup> Susannah Brooks, *Gerda Lerner, Women’s Studies Pioneer, Dies at 92*, UNIV. WISCONSIN-MADISON NEWS (Jan. 4, 2013), <http://www.news.wisc.edu/21393>.

<sup>2</sup> *Gerda Lerner (1920–2013)*, NAT’L WOMEN’S HIST. MUSEUM, <http://www.nwhm.org/education-resources/biography/biographies/gerda-lerner/> (last visited Oct. 6, 2013); *Women’s History Pioneer Gerda Lerner Dies at 92*, NBC NEWS (Jan. 4, 2013, 1:00 AM), [http://usnews.nbcnews.com/\\_news/2013/01/04/16340668-womens-hisotry-gerda-lerner-dies-at-92?lite](http://usnews.nbcnews.com/_news/2013/01/04/16340668-womens-hisotry-gerda-lerner-dies-at-92?lite).

of *Feminist Consciousness*, are classics in the field of women's history.<sup>3</sup> She died recently,<sup>4</sup> and I can think of no greater tribute to Gerda than to dedicate this talk to her memory.

Also, as Ruth Gordon recently wrote in her essay, *On Community in the Midst of Hierarchy (and Hierarchy in the Midst of Community)*, "I immediately understood" by attending the Northeast Corridor Collective of Black Women Law Professors "that I was following in the glorious footsteps of others."<sup>5</sup> In that spirit, I would like to thank Twila Perry—Professor of Law and Judge Alexander P. Waugh, Sr. Scholar at Rutgers University School of Law—Newark—who mentored me through the law school admissions process nearly thirty years ago and encouraged me to apply for a prestigious scholarship that I ultimately received. If left to my own devices, I would have never applied for that important honor. That support opened many doors for me in law school and created many options for me in my later legal education career.

#### B. Definition

Feminist scholarship seeks to respect individual work, while searching for collective solutions to intellectual as well as societal problems. It seeks to break down and combat the artificial hierarchies, the elitism and narrow specialization so characteristic of our profession; it seeks constantly to broaden and deepen the connectedness between thinking and committed social action. . . . I have in this work at times stood in opposition to prevailing trends, seemingly alone, yet I have never felt myself disconnected from that rising stream of consciousness, will, and force which seeks to have women realize their full human potential. . . . Let me simply say, that I feel myself embedded in the collective effort and that I hope my own, sometimes lonely explorations have added to its strength.<sup>6</sup>

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<sup>3</sup> See *Women's History Pioneer Gerda Lerner Dies at 92*, *supra* note 2 (describing *Black Women in White America* as "one of the first books to document the struggles and contributions of black women in American history").

<sup>4</sup> Brooks, *supra* note 1.

<sup>5</sup> Ruth Gordon, *Our Community in the Midst of Hierarchy (and Hierarchy in the Midst of Community)*, in *PRESUMED INCOMPETENT: THE INTERSECTIONS OF RACE AND CLASS FOR WOMEN IN ACADEMIA* 313, 320 (Gabriella Gutiérrez y Muhs et al. eds., 2012).

<sup>6</sup> GERDA LERNER, *THE MAJORITY FINDS ITS PAST: PLACING WOMEN IN HISTORY* vii–viii (1979).

About two years ago, a colleague came back from the Section's New Deans Workshop and said "there appeared to be a record number of people of color and women at this year's workshop."<sup>7</sup> When invited to participate in this panel, I thought the subject of deaning and identity was worth exploring, as well as whether there was any truth to my colleague's observation about the numbers. In this presentation, I will provide a snapshot of challenges these leaders face.<sup>8</sup> I also plan to reveal the strength and the power of their differences.<sup>9</sup> This project is based on interviews with deans and senior academic leaders in law schools and other institutions of higher education who talked about the value their race, gender, or sexual orientation contributed to their leadership roles at their institutions.

## II. BACKGROUND AND HISTORY

In 2002, in one of the earliest works on this subject, Herma Hill Kay, the former dean of Berkeley Law School and a noted scholar on gender discrimination, studied whether, due to gender, women deans experience and approach the considerable challenges of deaning any differently than their male counterparts.<sup>10</sup> The article also examined "the past and present situation of women deans, the unique obstacles they face, and the opportunities that are open to them."<sup>11</sup> Kay's study, as an initial matter, looked at the history of women law deans.<sup>12</sup> Ellen Spencer Mussey was the first female law dean in the United States.<sup>13</sup> In 1898, with Emma Gillett, Mussey co-founded a law school in Washington D.C. to provide "such a legal education for women as will enable them to practice the legal profession."<sup>14</sup> Mussey became the

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<sup>7</sup> The author promised all interviewees referenced in this Article confidentiality. To verify the accuracy of any interviews referred to in this Article, please contact the author.

<sup>8</sup> See *infra* Part II (analyzing the different obstacles that the pioneering women in higher leadership of the legal education system had to conquer to establish their positions and pave the way for future female leaders).

<sup>9</sup> See *infra* Part III (detailing the impact initial female leaders had on the developing leadership within the legal education system and how women have been furthered due to their efforts).

<sup>10</sup> See generally Herma Hill Kay, *Women Law School Deans: A Different Breed, or Just One of the Boys*, 14 YALE J.L. & FEMINISM 219 (2002), available at <http://scholarship.law.berkeley.edu/facpubs/188> (exploring the ways in which female deans approach their duties differently than male deans due to their gender).

<sup>11</sup> *Id.* at 220.

<sup>12</sup> See *id.* at 221-24 (providing a brief history of female law deans).

<sup>13</sup> *Id.* at 221.

<sup>14</sup> *Id.* (quoting Mary L. Clark, *The Founding of the Washington College of Law: The First Law School Established by Women for Women*, 47 AM. U. L. REV. 613, 634 (1998)).

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founding dean of what would eventually become American University's Washington College of Law.<sup>15</sup>

Her article concluded "[i]t may be too soon for a comparative evaluation of the impact of women and men deans on their individual schools or on legal education in general."<sup>16</sup> Professor Richard Neumann, as quoted in the same article, was skeptical and predicted "'unless there are dramatic changes in the way law school deans are hired' the female percentage of deans may not equal the female percentage of professors 'at any time in the foreseeable future.'"<sup>17</sup> Kay's view was more optimistic and as it turns out, visionary. She reported that:

These women deans meet regularly and are actively encouraging other women to seek such posts. Many of them had women Associate Deans. Their presence in office sets an example for the increasing number of women law students . . . . The opportunity for mentoring exists and . . . may . . . have a positive impact on the numbers of women who aspire to deanships.<sup>18</sup>

This section first discusses perceived gender traits and stereotypes.<sup>19</sup> It then explains the multi-facets required for effective leadership.<sup>20</sup>

A. *Gender Traits and Stereotypes*

Herma also wrote:

It should not be surprising that the same stereotypes that have hampered the movement of women into leadership positions in politics, business, and the professions generally have also played a part in reducing women's representation in high level academic administration jobs both in colleges and universities as well as in legal education. The same doubts about the ability of women to perform as well as men in such positions lie closely

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<sup>15</sup> *Id.* Five women deans followed Mussey until the school became an accepted member in the Association of American Law Schools; since, the school has seen only male deans. *Id.* The school affiliated with American University in 1949. *Id.*

<sup>16</sup> *Id.* at 238.

<sup>17</sup> *Id.* (quoting Richard K. Neumann Jr., *Women in Legal Education: What the Statistics Show*, 50 J. LEGAL EDUC. 313, 324 (2000)).

<sup>18</sup> *Id.*

<sup>19</sup> *See infra* Part II.A.

<sup>20</sup> *See infra* Part II.B.

beneath the surface, and not infrequently break through the silence: women may not be tough enough, rigorous enough, or sufficiently inspiring to be successful either at fundraising or institutional leadership. Search committees may discount the ability of women with small children to handle such a time-consuming and stressful position. The burden of overcoming these stereotypes is a unique obstacle faced by women, and particularly women of color, who aspire to become law school deans.<sup>21</sup>

Data from the time of her writing anecdotally supports this thesis.

So it was in the fall of 2000, just before Herma began writing her piece, that there were: 26 women law deans out of 180 decanal positions or 14%.<sup>22</sup> From 1950 through 2003, there were a total of six female deans of color or 3%;<sup>23</sup> three women of color, or 1.7% of the total number, were appointed from 1992 to 2003.<sup>24</sup> The twelve producer law schools had an average of 22% women faculty members from 1996 to 1999.<sup>25</sup>

In a more recent essay, *The Making of a Token*, one of a number of essays in a book entitled *Presumed Incompetent: The Intersections of Race and Class for Women in Academia*, author Yolanda Flores Niemann writes about the presumption of incompetence experienced by all women faculty.<sup>26</sup> Niemann's writing, consistent with Herma Hill Kay's work, also reported that the presumption is experienced particularly sharply by women of color.<sup>27</sup> "There is strong documentation for the idea that a stigma of incompetence arises from the affirmative-action association . . . especially when it carries a negative connotation in the hiring department."<sup>28</sup>

<sup>21</sup> Kay, *supra* note 10, at 233–34.

<sup>22</sup> See *id.* at 222 (describing statistics, as of August 1, 2002, that were collected from 180 law schools fully approved by the American Bar Association).

<sup>23</sup> *Id.* at 225 tbl.1.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* at 226 n.27. The twelve producer schools included: "Yale, Harvard, Chicago, N[ew] Y[ork] U[niversity], Columbia, Stanford, Berkeley, Michigan, Duke, Georgetown, Virginia, and Pennsylvania." *Id.* at 226 n.28. The author also noted that the remaining 170 schools had 27% women faculty. *Id.* at 226 n.27.

<sup>26</sup> See generally Yolanda Flores Niemann, *The Making of a Token: A Case Study of Stereotype Threat, Stigma, Racism, and Tokenism in Academe*, in *PRESUMED INCOMPETENT: THE INTERSECTIONS OF RACE AND CLASS FOR WOMEN IN ACADEMIA*, *supra* note 5, at 336.

<sup>27</sup> *Id.* at 336.

<sup>28</sup> *Id.* at 338 (citation omitted); see also Carla D. Pratt, *The End of Indeterminacy in Affirmative Action*, 48 VAL. U. L. REV. 535 (2014) (referencing the view that affirmative-action beneficiaries are another incompetent handout recipient). But see Richard Sander, *Mismatch*

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These women, wrote Niemann, speaking about women of color who were her predecessors in the academy, had borne the brunt of breaking barriers as both students and colleagues questioned their credentials and their qualifications.<sup>29</sup> However, Sara Lawrence-Lightfoot wrote that these women were clear their “generation was the first to have the opportunity, not the first to have the ability.”<sup>30</sup> African American Professor Linda Greene, who began teaching in 1978, wrote that when we take the podium we threaten “the legitimacy of an academic world in which males—primarily white males”—predominate.<sup>31</sup> She described her early experiences in the academy as “an intellectual version of a nighttime ride through the deep South countryside.”<sup>32</sup> Moreover, Laura Padilla in *A Gendered Update on Women Law Deans: Who, Where, Why, and Why Not?*, wrote that in contrast to women, men are generally characterized in terms of their “leadership style” as “aggressive, objective, dominant, competitive, and decisive,” yet “[t]hese very same traits have proven to be a double-edged sword for women.”<sup>33</sup> “[W]hen women are assertive, they face negative reaction, but when they’re not assertive, they can’t advance.”<sup>34</sup>

Further, “[a]t the same time that gender-specific stereotypes privilege men and harm women, women must cope with a continued preference for male-oriented leadership styles.”<sup>35</sup> “These stereotypes and others have been harmful for women leaders partly because if the women act out of type . . . they may be harshly judged.”<sup>36</sup> Indeed, one woman dean recently observed that a woman, in her capacity as dean, “can’t be too much of a girl.”<sup>37</sup> She reported that “a woman who was a recent dean had a very feminine and stylish dress and demeanor.”<sup>38</sup> She was not taken as seriously as she should have been, given the quality of

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and the Empirical Scholars Brief, 48 VAL. U. L. REV. 555 (2014) (discussing negative consequences of affirmative action programs on students).

<sup>29</sup> See Niemann, *supra* note 26, at 354 (describing how these women survived challenging situations).

<sup>30</sup> SARA LAWRENCE-LIGHTFOOT, *I’VE KNOWN RIVERS: LIVES OF LOSS AND LIBERATION* 591 (1994).

<sup>31</sup> Linda S. Greene, *Tokens, Role Models, and Pedagogical Politics: Lamentations of an African American Female Law Professor*, 6 BERKELEY WOMEN’S L.J. 81, 81 (1990–1991).

<sup>32</sup> *Id.* at 83.

<sup>33</sup> Laura M. Padilla, *A Gendered Update on Women Law Deans: Who, Where, Why, and Why Not?*, 15 AM. U. J. GENDER SOC. POL’Y & L. 443, 507–08 (2007).

<sup>34</sup> *Id.* at 508.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.* at 507.

<sup>37</sup> As reported to the author by an undisclosed interviewee. *Supra* note 7.

<sup>38</sup> As reported to the author by an undisclosed interviewee. *Supra* note 7.

her ideas and the courage of her leadership.<sup>39</sup> The dean I interviewed believed that a “significant measure of the lack of respect she commanded was gender-based.”<sup>40</sup>

*B. Two Wings of a Bird – Ying and Yang of Leadership Styles*

Former Dean Dorothy Wright Nelson was not authoritarian, in contrast to what might be characterized as a stereotypical male approach.<sup>41</sup> She “preferred to approach problems by having everyone sit around a table and talk things out, over refreshments if possible.”<sup>42</sup> Lisa Kloppenberg, former Dean at the University of Dayton School of Law, incoming dean at Santa Clara University’s School of Law, and Nelson biographer, wrote Nelson “emphasized collaboration and teamwork, forging alliances between people with common interests.”<sup>43</sup> She rates Nelson’s deanship at the University of Southern California School of Law as an, “astounding success.”<sup>44</sup> She was a woman of the 1950s—gracious and diplomatic and had tea and cookies at meetings.<sup>45</sup> As a result, people underestimated her, but she was very persistent. She was also a good mentor, a promoter of peace, an early supporter of diversity, and a servant/leader in the tradition of her Baha’i faith.<sup>46</sup> She changed the nature of the law school with her classically feminine style.<sup>47</sup> Today, Nelson is an eighty-five-year-old judge on the Ninth Circuit, who brings into her chambers a variety of judges from different backgrounds to talk to her clerks, over informal lunches, about their perspectives.<sup>48</sup> She still uses her power as a convener to broaden perspectives. As a Baha’i, she says her faith teaches her that men and

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<sup>39</sup> As reported to the author by an undisclosed interviewee. *Supra* note 7.

<sup>40</sup> As reported to the author by an undisclosed interviewee. *Supra* note 7.

<sup>41</sup> Lisa A. Kloppenberg, *A Mentor of Her Own*, 33 U. TOL. L. REV. 99, 100 (2001).

<sup>42</sup> Kay, *supra* note 10, at 238.

<sup>43</sup> Kloppenberg, *supra* note 41, at 100.

<sup>44</sup> *Id.* at 101.

<sup>45</sup> Mary M. Schroeder, *Judging with a Difference*, 14 YALE J.L. & FEMINISM 255, 255–56 (2002).

<sup>46</sup> See Kloppenberg, *supra* note 41, at 100 (describing Nelson’s personality and her Baha’i faith).

<sup>47</sup> See generally *id.* (discussing the various improvements Nelson helped to establish as Interim Dean at the University of Southern California School of Law).

<sup>48</sup> See Carol J. Williams, *Senior Judges Keep 9th Circuit Courthouses Open*, L.A. TIMES (Mar. 14, 2011), <http://articles.latimes.com/2011/mar/14/local/la-me-senior-judges-20110314> (discussing how Judge Nelson, among others, continue managing caseloads).



women are equal but with different qualities like “two wings of a bird,” “the bird can’t fly” with one wing alone.<sup>49</sup>

### III. MICROAGGRESSIONS—UNCONSCIOUS BIAS—BLACK TAX

One African American dean in the group I interviewed reported that “[t]here was an unwritten, sometimes overt assumption that only white males from elite law schools could run law schools.”<sup>50</sup> He remembered Guido Calabrese, the former Yale Law School dean, at an Association of American Law Schools (“AALS”) conference on recruiting a diverse faculty say that “[w]hen hiring minority faculty you always hear faculty say, we need the most qualified person but they don’t ever say that when hiring a tax or contracts professor. . . . Bring me a qualified tax professor.”<sup>51</sup> As Charles Lawrence and Mari Matsuda wrote, “no one ever asks if a white male is qualified” or offers “I would hire a white man if he were qualified.”<sup>52</sup>

This threshold question about “qualified minorities” lingers today. A female dean of color reported recently that a board she served on began their discussion about diversifying their ranks with wanting only those people of color who were “qualified and competent” and how hard it was to find someone competent.<sup>53</sup> She immediately challenged them on the seriousness of their intentions by asking, “Am I the token minority?” Because if so, “I’m more qualified than most of you!”<sup>54</sup> As a woman of color, she still believes that she is presumed incompetent, and she hears subtle comments and feels she must prove herself to be the best.

One woman of color is a dean at what she describes as a “southern school,” and for her, race has been the predominant issue.<sup>55</sup> As an example, she reports that she is routinely mistaken for another African American woman dean at the same school.<sup>56</sup> It recently happened when

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<sup>49</sup> Danielle Gillespie, *African Women’s Delegation Visits Pasadena Yesterday*, INT’L VISITORS COUNCIL L.A. (Oct. 12, 2007), [http://www.ivcla.org/pdfs/Pasadena\\_Now\\_News.pdf](http://www.ivcla.org/pdfs/Pasadena_Now_News.pdf) (quoting Judge Dorothy Nelson).

<sup>50</sup> As reported to the author by an undisclosed interviewee. *Supra* note 7.

<sup>51</sup> As reported to the author by an undisclosed interviewee. *Supra* note 7. *See also* Kevin Brown, *Tribute to Randall Shepard*, 48 VAL. U. L. REV. 585 (2014) (mentioning Guido Calabresi as a professor at Yale Law School when former Indiana Supreme Court Justice Randall Shepard attended school there).

<sup>52</sup> As reported to the author by an undisclosed interviewee. *Supra* note 7.

<sup>53</sup> As reported to the author by an undisclosed interviewee. *Supra* note 7.

<sup>54</sup> As reported to the author by an undisclosed interviewee. *Supra* note 7.

<sup>55</sup> As reported to the author by an undisclosed interviewee. *Supra* note 7.

<sup>56</sup> As reported to the author by an undisclosed interviewee. *Supra* note 7.

they were both on the same panel and the law school dean was called by the name of the non-law school dean.<sup>57</sup> The law school dean laughed but brought it up.<sup>58</sup> This phenomena and approach was the subject of a recent *New York Times* column, *One of a Kind*.<sup>59</sup> The query came from a black woman academic who lives in a small town and is routinely mistaken for another black woman in town.<sup>60</sup> “[P]eople make quick IDs,” Philip Galanes wrote, based on “a couple of cues,” but he also understands that those who insist on a nonexistent resemblance are telling women of color that they are interchangeable.<sup>61</sup> “[W]e’d resent our invisibility,” the column’s author wrote.<sup>62</sup> The columnist recommends responding with “[a]ctually, we look nothing alike, aside from our skin color.”<sup>63</sup> This, he advises will reduce your anger and the likelihood that this person will make the same mistake twice.<sup>64</sup>

This section next discusses, in Part III.A., the transitions to include women in the academic field.<sup>65</sup> Part III.B shows how the numbers have changed in terms of female deans.<sup>66</sup> Thereafter, Part III.C. explains how law schools now pay attention to more diversity.<sup>67</sup> Part III.D. describes the importance of mentorship in continuing diversity initiative success.<sup>68</sup> Finally, Part III.E provides continued challenges to diversity, and Part III.F considers why change is still necessary despite recent improvement.<sup>69</sup>

#### A. *Transitions*

By the mid-2000s, women and people of color in academia were overcoming presumptions and exceeding expectations. In 2007, Laura Padilla wrote *A Gendered Update on Women Law Deans: Who, Where, Why, and Why Not?* and argued that women deans, at least, were no longer

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<sup>57</sup> As reported to the author by an undisclosed interviewee. *Supra* note 7.

<sup>58</sup> As reported to the author by an undisclosed interviewee. *Supra* note 7.

<sup>59</sup> Philip Galanes, *One of a Kind*, N.Y. TIMES, Apr. 7, 2013, at ST8, available at [http://www.nytimes.com/2013/04/07/fashion/one-of-a-kind.html?\\_r=0](http://www.nytimes.com/2013/04/07/fashion/one-of-a-kind.html?_r=0).

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> See *infra* Part III.A.

<sup>66</sup> See *infra* Part III.B.

<sup>67</sup> See *infra* Part III.C.

<sup>68</sup> See *infra* Part III.D.

<sup>69</sup> See *infra* Parts III.E-F.

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tokens.<sup>70</sup> They were contributing by “moving projects forward through collaboration,” “making the workplace more hospitable,” and working towards maintaining a “gender-positive environment.”<sup>71</sup>

As it turns out, a number of women deans in the interviews reported that “just being who you are changes the conversation.”<sup>72</sup> One faculty colleague expressed “how liberated the junior women felt with her at the front of the room.”<sup>73</sup> An openly gay provost, who includes his husband in college events, said “[t]here is a greater comfort level now with diversity. It’s less groundbreaking. The idea of a woman, a person of color, or a gay or lesbian dean is no longer novel. Those glass ceilings have been shattered in a general sense.”<sup>74</sup> There is more of an awareness of issues surrounding identity in higher education.<sup>75</sup> Some of this, he notes, stems from President Obama’s inclusion of “Seneca Falls, and Selma, and Stonewall” in his 2013 Inaugural Address, making gay and lesbian issues part of the civil rights continuum.<sup>76</sup> The provost went on to say “while there are quite a few gay provosts there are many fewer openly gay presidents. . . . In fact there are five new gay presidents this year—the largest number on record for any single year.”<sup>77</sup> He believes the unspoken feeling seems to be that it is okay if the dean or provost is black or a woman but not the president.<sup>78</sup> The provost argued “none of these groups have made significant strides as presidents, although white women have made some progress. . . . Interestingly, Asians are the most underrepresented in presidencies but overrepresented in the academy.”<sup>79</sup> The recent American Council for Education (“ACE”) salary survey didn’t even track gay presidents.<sup>80</sup>

<sup>70</sup> See generally Padilla, *supra* note 33 (discussing the importance of women’s roles as leaders).

<sup>71</sup> *Id.* at 488, 500, 505.

<sup>72</sup> As reported to the author by various undisclosed interviewees. *Supra* note 7.

<sup>73</sup> As reported to the author by an undisclosed interviewee. *Supra* note 7.

<sup>74</sup> As reported to the author by an undisclosed interviewee. *Supra* note 7.

<sup>75</sup> As reported to the author by an undisclosed interviewee. *Supra* note 7.

<sup>76</sup> President Barack Obama, 2013 Inaugural Address (Jan. 21, 2013), available at <http://www.whitehouse.gov/the-press-office/2013/01/21/inaugural-address-president-barack-obama>.

<sup>77</sup> As reported to the author by an undisclosed interviewee. *Supra* note 7. The provost continued, stating “there are a total of about forty openly gay presidents in the United States as of the summer of 2013.” *Supra* note 7.

<sup>78</sup> As reported to the author by an undisclosed interviewee. *Supra* note 7.

<sup>79</sup> As reported to the author by an undisclosed interviewee. *Supra* note 7.

<sup>80</sup> See *Leading Demographic Portrait of College Presidents Reveals Ongoing Challenges in Diversity, Aging*, AM. COUNCIL EDUC. (Mar. 12, 2012), <http://www.acenet.edu/news-room/Pages/ACPS-Release-2012.aspx> (discussing diversity issues but failing to include a discussion on gay college presidents).

*B. Sea Change*

Returning to the anecdotal observations at the New Deans Workshop that I reported in the introduction—they were true.<sup>81</sup> We are at the crossroads of change. In the fall of 2012 there were: 55 women deans out of 201 decanal positions or 27% of full-time faculty; 37 deans of color or 18%; 13 women of color or 6%; women were 32% of full-time faculty; women of color were 22%; and people of color were 17%.<sup>82</sup> The number of women deans has more than doubled since 2000; the number of deans of color has tripled; and the number of women deans of color has increased five-fold.<sup>83</sup> A stunning result!

*C. It Is a New Day at the Law School*

A senior woman dean, now in her second deanship, reflected on the question of how her gender might make a difference now, as Herma Hill Kay wondered earlier.<sup>84</sup> She believes there is more mentoring and more structural support available, and more women are now succeeding women in deanships.<sup>85</sup> The more experienced women deans moot job talks for colleagues and provide active mentoring for women interested in deaning. In addition, Seattle University School of Law, the University of Washington School of Law, and the Society of American Law Teachers co-sponsor a conference encouraging diversity in law school deanships and the AALS has maintained a directory of women and people of color interested in law school deanships.<sup>86</sup>

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<sup>81</sup> See *supra* text accompanying note 7 (discussing the number of women at the New Deans Workshop).

<sup>82</sup> But see COMM'N ON WOMEN IN THE PROFESSION, AM. BAR ASS'N, A CURRENT GLANCE AT WOMEN IN THE LAW 2011, at 3 (2011) (providing older research studies, which show lower representation for both white women and women of color in law school administration).

<sup>83</sup> *Id.*

<sup>84</sup> See *supra* text accompanying notes 10–18, 21–25 (discussing Kay's findings and thoughts).

<sup>85</sup> As reported to the author by an undisclosed interviewee. *Supra* note 7.

<sup>86</sup> See SOC'Y OF AM. LAW TEACHERS, UPDATE ON SALT ACTIVITIES 2 (2011), available at [http://www.americanbar.org/content/dam/aba/administrative/legal\\_education\\_and\\_admissions\\_to\\_the\\_bar/council\\_reports\\_and\\_resolutions/2011\\_december\\_salt\\_report.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/council_reports_and_resolutions/2011_december_salt_report.authcheckdam.pdf) (reporting on the co-sponsored "Promoting Diversity in Law School Leadership Workshop" in 2011); *Dean's Databank*, ASS'N AM. L. SCHS., [http://www.aals.org/services\\_databanks.php](http://www.aals.org/services_databanks.php) (last visited Sept. 28, 2013) (recognizing that the Deans' Databank provides "a list of faculty members nominated by their deans, associate deans, and other senior faculty as having the qualifications and experience to be viable candidates for deanship").

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Another concern and observation confronting women, people of color, and LGBT deans includes the question of whether there is a higher standard for their performance. For instance, if you are a woman and your deanship did not go well would the university hire another woman for the job? In a recent talk, the woman dean, cited above, gave examples of useful traits and skills that women bring to decanal duties.<sup>87</sup> She said, “[w]omen tend to be better listeners, tend to ask more questions and get more information, and tend to be better at building consensus in faculty governance and academic settings, to lead through a more collaborative model.”<sup>88</sup> These are useful leadership skills for any academic institution.

D. *Strengths – Two Wings of a Bird*

The impact of diversity is best understood by the deans paving the way for further diversity in academics.<sup>89</sup> One woman dean reported that she indeed works hard at getting people to talk to each other. She does not mind, for example, silence at meetings. She creates a space for others to speak. She’s more concerned with those who are less enfranchised. She is looking for a more “winning strategy,” trying to be more conscious of consensus building but also has to be realistic about the pressing goals facing the institution during these very challenging times.

The openly gay provost, when asked about how his identity made a difference in his students’ lives, said that several students came to him suicidal or depressed. He was able to help them find a gay therapist and was instrumental in their lives by helping them come to terms with their identity, often in the face of family opposition, and to be successful in their academic lives. They said “thank you” to him for being there. In fact, many students reported the provost’s comfort level with “otherness” in terms of race, gender, and class. The students felt they could talk with him about these issues and reported that he responded with authenticity. The provost, from a “joyous point of view,” reported that some former students now send him Father’s Day cards acknowledging his parenting nature toward them.

Another woman dean of color reported that she believes it is important to make a difference; however, to help make a critical step forward, the job and leadership is not just about power. It deals with relationships and conversations with students, donors, and members of

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<sup>87</sup> As reported to the author by an undisclosed interviewee. *Supra* note 7.

<sup>88</sup> As reported to the author by an undisclosed interviewee. *Supra* note 7.

<sup>89</sup> Part III.D is based solely on various interviews conducted by the author. *Supra* note 7.

the community. This often comes more easily for those who have been “outsiders.”

Likewise, one senior African-American dean told of his own route to leadership and the importance of the pipeline, which included an unexpected surprise. The dean stated, “I was nominated for my first law deanship, and my nominator was a young African-American male assistant professor. I assumed that he had nominated me in some part because of some of the advice I had given him at a couple of AALS meetings.” When the dean asked the young professor why he nominated him, the professor acknowledged that the AALS advice had played some role. However, the professor stated that the real reason was that he remembered being in the audience at a program entitled “High School Law Minority Day” as a seventeen-year old. A law school sponsored the program when the dean was on that faculty. He gave a presentation to a group, predominantly consisting of minority high school students, about using their potential to build their futures. That future law professor has since told me that he never forgot what the dean said. Today, he is a full professor at a law school and has served as associate dean. He also shared the following story:

For some strange reason there was a time when it seemed to me that the African-American males at my law school had fallen into some opposing cliques. After meeting with some friends of mine, I challenged these young men to a basketball game at a local gym. The only rule was that the students had to be “skins.” The evening of the game about 15 of my friends also showed up. They were all African-American judges or lawyers from the area. Each one wore a t-shirt; some were black frat shirts (Ques, Alphas, Sigmas, Kappas); some were organizations like the Urban League or the NAACP; some wore miscellaneous t-shirts. Before the game started I asked all the students to stand in a circle holding hands and facing outward. I asked my friends to circle the students, holding hands, facing the students. I asked the following question as only a law professor might: Query: “What is it that we all have in common?” My friends laughed, but the students were silent, except one. He said, “Professor, we think you’ve made your point.” After that, I asked everyone to form one large circle, students alternating with the elders. Someone said a prayer. After that we played a few lively games of basketball. I can’t say that this meeting acted as some

kind of magic elixir, but afterward I did notice a positive change in the interactions among African-American students at the school. I can't say for sure that being an African-American on a majority faculty made all the difference in the scenarios I've shared, but I sincerely believe the experiences I brought to the table were valuable.

E. *Continuing Challenges*

Finally, there are some continuing challenges that bear investigating. This includes, for example, the number of named professorships for deans. If you analyze these by race and gender, one dean said there would likely be a disparity.<sup>90</sup> Furthermore, there are false assumptions or stereotypes, such as women are kinder, or the "other" cannot look like us. For example, during a salary negotiation, one woman dean found she was being paid less than her white male predecessor.<sup>91</sup> The president and the provost, with whom she negotiated, were both women!<sup>92</sup>

Recently, I negotiated for a faculty position at a law school. The dean with whom I was negotiating wanted to hire me as a fully tenured professor because of my leadership experience in legal education. This happens occasionally for judges and others who have contributed significantly to the profession, though they do not come from traditional tenure-track backgrounds. However, the female faculty at the law school, including women of color, opposed the suggestion because I would not endure the same competitive hierarchical process the other women experienced.

F. *It Is a New Day: Why Now?*

To answer the question "why are we experiencing these dramatic changes now?," one African-American dean replied "it's the simple reason that men have really messed things up, the ship is sinking. We were denied the opportunity before but we're prepared now."<sup>93</sup> Kate Bartlett, the former Dean at Duke University School of Law said, "[a]s the numbers increase, it's also the case that the position of dean is evolving. The job is getting less desirable. Schools are struggling to find

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<sup>90</sup> As reported to the author by an undisclosed interviewee. *Supra* note 7.

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deans, which opens up opportunities for women.”<sup>94</sup> There is an increasing emphasis on relationships in institution building, a movement away from the intellectual leadership position. We are at an important crossroads in legal education. Women, people of color, and members of the LGBT community are more able to emerge as leaders. I would like to thank those who participated in this project as a reminder of why it is important to share our stories.

Lani Guinier wrote in *Becoming Gentlemen: Women, Law School and Institutional Change*:

Ours is a story about being imprisoned and silenced by the status quo. . . . Our stories, though, are not monolithic. Nor are they monotone or monologue. Our stories help form a conversation in which we can define and redefine the world in terms that accommodate different perspectives and experiences. . . . We have a gift, not a grievance. Legal education is strengthened by including those who were once left out. Our gift then is to help institutions turn silence into insight, to make a chorus of many voices contending. “Gifted with second-sight,” we can share our stories so the rest of the world gains from our knowledge and experience. To paraphrase Nikki Giovanni, one purpose of leadership is to build more leadership. One purpose of telling our stories is to speak until those who follow gain a voice.<sup>95</sup>

As Albany Law School Dean Penny Andrews wrote, “Optimism is a key to excelling in the profession. . . . The challenge . . . is to find your place in the profession and to attempt to do the ordinary things of law extraordinarily well.”<sup>96</sup>

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<sup>94</sup> Katharine Bartlett, Dean, Duke Univ. Sch. of Law, Remarks at ABA’s Commission on Racial & Ethnic Diversity Roundtable Panel: Five Women Law School Deans Tell the Truth, available at [http://www.americanbar.org/content/dam/aba/publishing/perspectives\\_magazine/women\\_perspectives\\_FiveWomenDeansFall2003.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publishing/perspectives_magazine/women_perspectives_FiveWomenDeansFall2003.authcheckdam.pdf).

<sup>95</sup> LANI GUINIER ET AL., *BECOMING GENTLEMEN: WOMEN, LAW SCHOOL, AND INSTITUTIONAL CHANGE* 101 (1997).

<sup>96</sup> DEAR SISTERS, DEAR DAUGHTERS: WORDS OF WISDOM FROM MULTICULTURAL WOMEN ATTORNEYS WHO’VE BEEN THERE AND DONE THAT 99 (Karen Clanton ed., 2000).



IV. CONCLUSION

In conclusion, I would like to end on a note of optimism with this poem shared by a dean who participated in this project.

**Sunday Poetry: A Poem from the Underground  
Sometimes, by Anonymous**

Sometimes things don't go, after all,  
from bad to worse. Some years, muscadel  
faces down frost; green thrives; the crops don't fail.  
Sometimes a man aims high, and all goes well.

A people sometimes will step back from war,  
elect an honest man, decide they care  
enough, that they can't leave some stranger poor.  
Some men become what they were born for.

Sometimes our best intentions do not go  
amiss; sometimes we do as we meant to.  
The sun will sometimes melt a field of sorrow  
that seemed hard frozen; may it happen for you.

Sometimes all ends well.