

## TOURO LAW JOURNAL OF RACE, GENDER, &amp; ETHNICITY

## TRIBUTE TO PROFESSOR DEBORAH WAIRE POST

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It is such an honor for me to speak in tribute to my friend and colleague, Deborah Waire Post, on the occasion of her formal retirement from law teaching. I say “formal retirement” because we all know that Deborah will be anything but idle and removed from the issues, work, and community engagement and activism that has occupied her life for so many years. She will continue to teach and instruct us. She and we wouldn’t have it any other way. Like many speakers today, I have had difficulty remembering exactly when Deborah and I met, but it has been many years and my life has been enriched for knowing her. What has made me especially happy are the ways that our lives intersected in the academy and outside of it.

We both belonged to the Northeast Corridor of Black Women Law Professors, we both have served as Society of American Law Teachers (SALT) co-presidents, and we both have been involved as scholar-activists, which is reflected in our teaching, scholarship and community activism. One of my joys was the time that Deborah was a visiting professor at Syracuse and we got to see each regularly. And personally, I have enjoyed and been privileged to know Deborah’s family. She hails from Auburn, New York, which is in Central New York. Auburn is the location of Harriet Tubman’s final resting place. Central New York is also where Syracuse University is located, and Deborah, my wife and I have gotten together when she has been home in the area. So over the years, I’ve known her son Christopher, as well as his family, which includes his wife Jackie and Deborah’s beloved grandchildren, Samuel and Andiarra. I got to know her Uncle Merritt Fletcher, now a nonagenarian, who is the last of her parents’ generation. I met her cousin Glen Fletcher and his wife Donna, and their children Kasha and Garrison. Of course, I met the other Post sisters – Naomi, Lucinda, and Leola.

Deborah’s contributions to our community and our profession are legion. She was a forerunner as a legal scholar in insisting in a holistic method to teaching legal subjects. Her work in the field of Contracts, for instance, epitomizes this important pedagogical methodology. To fully understand what this means to Deborah, and to all of us, it is essential that we hear Deborah in her own words. For this purpose, I focus on her writings in two of her pieces that epitomize Deborah’s philosophy, dedication, and being: *Teaching Interdisciplinary: Law and Literature as Cultural Critique* and *Reflections on Identity, Diversity and Morality*. As Deborah has written, “A holistic analysis is well suited to the subject of law teaching because it is impossible to separate the ‘how’ of teaching, teaching style or technique...from the ‘what’ of teaching, teaching goals.”<sup>1</sup> As she notes, teaching goals can be very complex, which go beyond simply communicating a body of information, to teaching lawyering skills and subject matter “in a way that is emancipatory.”<sup>2</sup>

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<sup>1</sup> Deborah Waire Post, *Teaching Interdisciplinary: Literature, Law and Literature as Cultural Critique* 44 ST. LOUIS U. L. J. 1247 (2000). See Deborah Waire Post, *Reflections on Identity, Diversity and Morality*, 6 BERKELEY WOMEN’S L. J. 136 (1990-1991).

<sup>2</sup> *Id.*

Her co-authored casebook, *Contracting Law* (Carolina Academic Press), with Professors Amy Kastely and Sharon Hom, was viewed by conventional academics as unorthodox and heretical. The book includes poetry and literature, and she explains why and how literature is used in teaching contracts law. Rather than replicate ideological and material forms of privilege and domination that students are accustomed to in their lives and educational experiences, Deborah states, “If I want [students] to learn the law in a meaningful way, we have to give them more than rules and doctrines. I want to give them back a knowledge of their own history and culture; I want to encourage them to consider all aspects of the human condition. ‘Literature’—broadly defined—helps with both.”<sup>3</sup>

She forces us to ask, “What level of understanding do I want my students to have before they begin to practice? More importantly, what level of understanding would offer the best prospects for the development of the law, if by development we mean the possibility of improvement in human relationships and in the prospect for justice and equity in our society?”<sup>4</sup>

“My answer,” she informs, “is that lawyers should understand the particulars of a case and the human dynamics involved, the life experiences that inform the choices the parties made. But they also need to understand how a case fits into a larger scheme; how it repeats and replays issues that are contested culturally and politically. That belief drives my pedagogy.”<sup>5</sup>

Thus, Deborah has been steadfastly committed to the endeavor to see contracts in human relational terms. What a lawyer should know before he or she begins to consider the options available to a client “is the meaning that the client assigns to the relationship; the expectations the parties have of one another; and the desires/needs/passions that motivate the parties to engage or disengage from an exchange relationship.”<sup>6</sup> As she says, this involves an essential understanding of the “relationship between social position, power and law”; contests of world views.<sup>7</sup> In this pedagogical worldview, transparency is key. Ultimately, students and all of us should understand:

The law plays an important role in this contest and students of the law should know what that part is. They should never participate blindly without knowledge of the impact the work they do can have on themselves, their family and friends on complete strangers and on the world that they are living in or the world they would like to create.<sup>8</sup>

Deborah has also been extraordinarily insightful in her self-awareness and generous in sharing her critical awareness with us for our own knowledge and possibilities for change. In her essay, *Reflections on Identity, Diversity and Morality*, she tells of her coming to consciousness regarding her intersectional racial and gender identity. It is a deeply personal reflection. She starts, “I [grew] up in Auburn, NY . . . people referred to me as ‘one of the Post girls.’”<sup>9</sup> From her early

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<sup>3</sup> *Id.* at 1250.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 1251.

<sup>7</sup> *Id.* at 1252.

<sup>8</sup> *Id.* at 1272.

<sup>9</sup> Deborah Waire Post, *Reflections on Identity, Diversity and Morality*, 6 BERKELEY WOMEN’S L. J. 136 (1990-1991).

life, she repeatedly faced the question, “What are you?” or “What are you, anyway?”<sup>10</sup> She found fear, anger, and even humor in her inquisitor’s confusion. In her pre-law teaching life as an anthropologist she worked with eminent anthropologist Margaret Mead, and Deborah was thought to be Samoan. In law practice and teaching in Texas, she was thought to be Latina. Or, quite possibly, as others were convinced, she was Creole from Louisiana.<sup>11</sup> Any ambivalence that Deborah had in answering was based on her recognition that in each context, “the danger hidden in the question . . . was found in the motives of the asker.”<sup>12</sup> Thus her answer is imbued with moral and ethical dimensions. Deborah states unequivocally:

My decision to identify myself as a black person is not exclusively a matter of descent, although my father’s grandfathers were a runaway slave and a free Black man who fought in the Civil War. Nor is it simply a matter of residence, although the fact that I grew up in a Black neighborhood surely played a part in the creation of my sense of identity. It is not a matter of skin color. Some might argue that I am black because whites will not let me be anything else. I prefer to believe that I am who I am, a black woman, because I made an ethically and morally correct choice with respect to my identity.<sup>13</sup>

In this way, Deborah made the conscious decision, the critical awareness, to be part of the shared struggle and existence of Black people, something ingrained in her family’s history and struggle for racial equality.<sup>14</sup> But there was more to be realized and claimed, as Deborah tells of the awakening of her gender consciousness, as well. “Gender became part of my ethical identity when I was in law school.”<sup>15</sup> She recalls an episode in a law school class that was raw with sexism and male privilege: “How’s that for your 2-pronged test?” I heard him challenge my female contracts professor in a tone of voice that left me speechless. It was unparalleled in its hostility, disrespect, and arrogance.”<sup>16</sup> From these lessons in law school, she learned “in [her] very first year in law school how dangerous it is to be a woman in an environment where men rule – men who are faculty and men who are students.”<sup>17</sup> More insidiously, she learned, “how easy it is for women to adopt the attitudes of men, to internalize the value system which teaches them to hate themselves and other women.”<sup>18</sup> Gender is a political issue upon which power and economic resources are distributed or withheld. Hence, Deborah’s identity as a feminist came to fruition “because people use[d] gender as a basis for deciding whether or not I will be allowed to pursue my vocation as a teacher and a scholar.”<sup>19</sup> She found community with black and white women, feminists, who were engaged in similar struggle. Such multiple consciousness can be fraught with conflict, as much as commonality. Deborah recognizes this struggle and its potential for coalition and community:

Among women, race issues may create sentiments of estrangement. Among Blacks, gender can have the same disintegrative effect. Generally, “multivocality” or “multiple

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<sup>10</sup> *Id.*

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

<sup>12</sup> *Id.* at 137.

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

<sup>14</sup> *Id.* at 137-40.

<sup>15</sup> *Id.* at 141.

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

<sup>17</sup> *Id.*

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

<sup>19</sup> *Id.* at 144.

consciousness” is viewed as a way of recognizing “multiple sources of oppression,” giving expression to more than one source of ethical identity. There is also the possibility, which is acknowledged in the case of White women and Black men, that multiple consciousness may bring within one person the identities of the oppressor and the oppressed.<sup>20</sup>

These conflicts and struggles persist, even as there has been a paradigm shift, as Deborah suggests:

The struggle for equality began with an argument which denied the differences between men and women, between blacks and whites. Today, a different paradigm of equality is being offered. In this paradigm, the struggle for equality embraces differences and demands equality, not in spite of, but because of those differences. The struggle for equality has a cultural dimension. We no longer want to emulate those who control our institutions. We no longer want to talk like them, write like them, or teach like them. Blacks are ‘reinventing difference,’ reconstructing cultures which have been decimated by the pressure to assimilate. Women are turning stereotypes on their heads, using gender difference as a vehicle for the reconstruction of society.<sup>21</sup>

There is hopefulness and recognition of self even when we have diverse experiences when we are the same race or gender. Deborah tells the story of helping a friend pack for Foreign Service duty in Panama:

I had reason to smile.... [T]he words of Malcolm X and Martin Luther King reached us both. Our libraries are virtually identical. The books we both keep and cart around each time we move are those which have meaning for both of us. They are valued and cherished because they contain the information we need, the knowledge and the work which is the legacy of our progenitors, the “Negro” intellectuals who preceded us... We shared with an entire generation of black youth the rediscovery of our heritage, the recreation of black culture. That is part of my identity as well. I am an intellectual who has a responsibility to preserve and maintain and, if I am able, to add to the cultural heritage of my people.<sup>22</sup>

She rejects the cynicism and devaluation of cultural relativism.

[C]ultural relativism is itself a moral choice. It is a choice which affirms human dignity and the principle of equality. Cultural relativism is resisted not because it makes cynics of us all, but because it compels uncomfortable value choices. These choices involve the recognition and accommodation of difference. These are choices which threaten to alter the power structure of our society.<sup>23</sup>

And, so, Deborah concludes in the voice of her total woman warrior being:

When I began this narrative, I thought I was writing two separate articles – one about my experiences as a woman, the other about my experiences as a black... My experiences as a

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<sup>20</sup> *Id.* at 144-45.

<sup>21</sup> *Id.* at 153.

<sup>22</sup> *Id.* at 153-54.

<sup>23</sup> *Id.* at 157.

woman and as a black person have their separate sources. Yet they pour into my conscious mind and are combined in me in the things I do; in what I have to give to those around me, to my students, my family, the ideals I hold, and the way I conduct my life. I am a Black woman teacher. This is my ethical identity.<sup>24</sup>

Yes, Deborah. Yes, you are. *You are a black woman teacher.* You have taught us, befriended us, critiqued us, and encouraged us. Besides your keen intellect and catching laughter, what we will remember and cherish most is that you *loved us*. Today, more than any other day, we hope you know that it is mutual, reciprocal, and deeply, deeply, deeply heartfelt. Best wishes on your new adventures in this latest chapter in your life.

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<sup>24</sup> *Id.* at 166.