



WOMEN'S RIGHTS LAW REPORTER

Seizing the Moments: The Beginnings of
the *Women's Rights Law Reporter*
and a Personal Journey

Elizabeth Langer

SEIZING THE MOMENTS: THE BEGINNINGS OF THE *WOMEN'S RIGHTS LAW REPORTER* AND A PERSONAL JOURNEY

*Elizabeth Langer**

In 1970, Rutgers Law School - Newark was widely and affectionately known as "The People's Electric Law School." Arthur Kinoy, one of the best and brightest (and certainly the most electric) of the defenders of constitutional rights taught constitutional law while maintaining an active practice defending minorities, war protesters, and outspoken civil libertarians.¹ Leonard Weinglass, an exceptionally smart young lawyer with close ties to the students and faculty at Rutgers Law, had just returned to his Newark office across the street from the law school after trying one of the most galvanizing cases of that era, *United States v. Dellinger*,² also known as the "Chicago Conspiracy Trial," a criminal case brought by Richard Nixon's Justice Department against prime organizers of protest demonstrations during the Democratic National Convention in 1968.³ The Newark riots following the assassination of Reverend Martin Luther King, Jr. in April 1968 had devastated the inner city, spurring the creation of a

* Rutgers Law School - Newark, Class of 1973. The author was responsible for establishing the *Women's Rights Law Reporter* ("WRLR") as a journal at Rutgers Law School and served as Coordinating Editor of the first issue published at the school in 1971. This article is dedicated to the staff of the WRLR's first issue at Rutgers Law School: Doreen Abraham, William Bates, Leigh Bienen, Mara Braverman, Charlyn Buss, Lois DeJulio, Donna Greenfield, Marsha Greenfield, Audrey Isaacs, Beverly Katz, Trudy Levy, Mary Rogers, Jemera Rone, Barbara Schain, Loren Siegel, Pat Vergata, Phyllis Warren, and Marilyn Zdobinski. A special thank you goes to Professor Suzanne Kim and my husband Professor Richard Chused for invaluable assistance. After a thirty-five year career in law, the author is now a painter in New York City.

¹ Arthur Kinoy, a graduate of Harvard University (A.B., 1941) and Columbia Law School (LL.B., 1947) joined the Rutgers Law faculty in 1964. Prior to joining Rutgers, he played an active role in the defense of Ethel and Julius Rosenberg, represented the United Electrical, Radio and Machine Workers of America, labeled as a Communist-controlled union during the McCarthy era, and served as vice president of the National Lawyers Guild and founder of the Center for Constitutional Rights. Among his notable legal victories was *Dombrowski v. Pfister*, 380 U.S. 479 (1965), which empowered federal district court judges to prevent enforcement of laws having "a chilling effect" on free speech. See Paul Lewis, *Arthur Kinoy is Dead at 82; Lawyer for Chicago Seven*, N.Y. TIMES, Sept. 20, 2003, at A11.

² 472 F.2d 340 (7th Cir. 1972).

³ See Arthur Weinberg & Lila Weinberg, *Leonard Weinglass for the Defense*, CHI. TRIB., Dec. 3, 1978, at F120.

meaningful Minority Law Students Program at Rutgers.⁴ Rutgers Law - Newark was leading the nation's movement toward clinical legal education, creating the first large scale student staffed clinical program⁵ as a significant and serious component of legal education — not without controversy among the faculty.

The anti-Vietnam War movement, the civil rights movement, and the rising anti-Richard Nixon sentiment nearly eclipsed another quieter movement that was percolating in 1970 — the Women's Liberation Movement. In 1970 the entering class at Rutgers Law - Newark was comprised of twenty percent women — a previously unheard of proportion. One out of five in the Class of 1973 was female, and the exhilaration among the women students was palpable. Word on the "street" was that New York University Law School came in at second place nationally with about fifteen percent women in its entering class that year. Other law schools were far behind.

In making the decision to apply to law school, we were stepping out of our comfort zones. Ours was a generation groomed to be housewives, teachers, secretaries, or nurses. In those days, the "Help Wanted" sections of newspapers listed employment opportunities by gender: "Help Wanted—Male" and "Help Wanted—Female." The job listings were vastly different. Not one of us women arrived at Rutgers in 1970 with a life-long ambition of becoming an attorney — that was not an avenue of choice normally presented to women of our generation. To the contrary, a woman entering law school in 1970, or before, can be presumed to have a story. These stories touch on many common themes: how we arrived, the obstacles in our paths, our responses to these obstacles, what we absorbed and what we rejected in the legal curriculum, how we altered a hitherto male-dominated legal profession, where we took our newly minted knowledge and power, and lastly where we landed and how we link ourselves to the generation of women law students today.

My path to Rutgers Law School was not straightforward. During my childhood and college years, law was never in my scope. There were no lawyers in our family, and my life was devoid of experiences that even tweaked my interest in law. My early childhood ambition was to become a nurse, but in high school it occurred to me that it was possible that women could become physicians.

⁴ See RUTGERS SCHOOL OF LAW - NEWARK, MINORITY STUDENT PROGRAM, <http://law.newark.rutgers.edu/admissions-financial-aid/minority-student-program> (last visited May 13, 2009).

⁵ These included the Constitutional Litigation Clinic run by Professors Arthur Kinoy, Frank Askin, and Bill Bender; the Administrative Process Project run by Professors Al Blumrosen, Frank Askin, and Richard H. Chused; and the Urban Legal Clinic run by Professors Annamay T. Sheppard, Rita Bender, and Richard Chused. See RUTGERS SCHOOL OF LAW - NEWARK, CLINICAL PROGRAM OVERVIEW, HISTORY, <http://law.newark.rutgers.edu/clinics/history> (last visited May 13, 2009).

A reality-check during my junior year of high school left a scar that in hindsight may have propelled me toward a legal career or, at least, toward the desire to empower myself as a woman. Boston University had established a six-year combined liberal arts and medical school degree program. The notion of shedding two out of eight years of what seemed interminable education for the medical degree I sought was appealing. At an interview for admission with a senior male faculty member in 1963,⁶ I was told that, although I was highly qualified for acceptance into the program on the basis of grades and SAT scores, the admissions office believed that women entered medical school primarily to find husbands. My interviewer cited the costs of a medical school education to the institution and concluded by explaining that the time and money is essentially “wasted” on women, strongly suggesting that I not bother to apply. My response to this episode was neither outrage, nor indignation, but rather a vague acceptance of a status quo I was unable to affect. But something in that rejection informed me that I would need a set of tools and a strategy to survive on equal terms in a world where men were making the rules and doling out the prizes.

Rethinking my high school plan of studying medicine, I opted for Barnard College and a liberal arts education, delaying future career plans. Barnard, the all-women’s sister school to the then all-male Columbia College, promoted and cultivated women’s intelligence and competence, although very much within the context of an era that was highly paternalistic and somewhat unprepared for anything approaching full equality. Barnard had a woman President, Martha Peterson,⁷ and many distinguished women professors. A majority of the classes were all, or nearly all, women. My first experience participating in a class without men was exhilarating — no interruptions from male students and a level of discourse among women that was lively and surprisingly uninhibited. Barnard was a sheltered and nurturing enclave in the larger Columbia community.

My senior year at Barnard, 1968, was an extraordinary year in recent history. During the Spring, student protests gripped the Columbia campus — protests over the University’s and President Grayson Kirk’s deep involvement in the Institute for Defense Analysis, a twelve-university consortium that carried out military research for the government’s war effort in Vietnam; and the University’s plans to build a large gymnasium in Morningside Park, displacing many low-income black residents of

⁶ Title IX, covering sex discrimination in education, was not enacted into law until 1972. 20 U.S.C. § 1681(a)(2) (2006).

⁷ See Dennis Hevesi, *Martha Peterson, 90, Barnard President in Vietnam War Era*, N.Y. TIMES, July 20, 2006, available at <http://query.nytimes.com/gst/fullpage.html?res=940DE6D6163FF933A15754C0A9609C8B63>.

Morningside Heights.⁸ Students for a Democratic Society (“SDS”)⁹ was an active force on the campus, and the entire Columbia-Barnard community was involved in intense debate over the university’s actions, the protesters’ tactics, and later the university’s rather blundering response to the protests. Many faculty members and graduate students were sympathetic to the protests. From April 23, 1968 to May 22, 1968, a total of 850 students were arrested.¹⁰ I was one of the 138 students arrested on May 22 in Hamilton Hall, many of whom were women.¹¹

There were several opportunities to leave the building prior to the arrests, but I made a conscious decision to stay. Though I believed an arrest would have far-reaching negative consequences on my future, I chose to remain. Oddly, the arrest turned out to have no adverse consequences in my life, perhaps even positive consequences. I had taken a stand and crossed a line. Much to my surprise, years later when I applied for membership in the District of Columbia Bar, I passed muster with the Character and Fitness Committee notwithstanding the arrest. Similarly, when I was offered a trial attorney position with the U.S. Department of Justice under the Ford Administration, I managed to secure the “Secret” FBI clearance necessary to defend classified programs in the Department of Energy, the Renegotiation Board, and other government agencies.

Many students were injured and bloodied during the Columbia protests after police were called to clear the campus. I spent the night at the Women’s Detention Center in Lower Manhattan with six other Barnard women before being released on bail provided by a generous Barnard alumna. Most remarkable about the experience was that students had closed down the university. What had begun as fairly contained dissent against the university’s policies soon morphed into wider legitimate grievances against the university’s excessive use of force in attempting to quell the protests and the university’s failure to listen to the students’ grievances. President Kirk’s harsh and unmeasured responses to the issues generating the protests resulted in widespread sympathy among previously uncommitted students. Professor Archibald Cox was appointed head of a university committee created to study the causes of the student unrest and offer recommendations for change.¹² Classes and exams were cancelled, and there were “teach-ins” about the war, racism, poverty, and the morality

⁸ See Sylvan Fox, *Students Invade a Columbia Hall; Police Oust Them*, N.Y. TIMES, May 22, 1968, at 1; see also John Kifner, *Columbia’s Radicals of 1968 Hold a Bittersweet Reunion*, N.Y. TIMES, Apr. 28, 2008, available at <http://www.nytimes.com/2008/04/28/nyregion/28columbia.html>.

⁹ See Students for a Democratic Society, <http://www.studentsfordemocraticsociety.org/> (last visited May 13, 2009).

¹⁰ See Columbia 68, <http://beat1.barnard.columbia.edu/Columbia68> (follow “timelines” hyperlink; then follow “Spring 1968” hyperlink; then follow “The Road Back” hyperlink) (last visited May 13, 2009).

¹¹ *Id.*

¹² See Archibald Cox, 92, *Is Dead; Helped Prosecute Watergate*, N.Y. TIMES, May 30, 2004, §1, at 32.

of protest. It was a transformative moment in history and a transformative moment in the lives of the students.

Less well-publicized on campus during the spring of 1968 were the charges brought by Barnard College against Linda LeClair. LeClair, a twenty-year-old sophomore, who was living off campus, unmarried, with her boyfriend, was found guilty of violating a college regulation and threatened with expulsion.¹³ Although Columbia men were free to live with women, in that era Barnard women were subject to a myriad of *in loco parentis* regulations. The episode resulted in widespread sympathy and activist support for Linda LeClair among the student body and further alienation from the administration. There was a grass roots movement to change the off-campus residence regulations. In the end, the "punishment" doled out by the student-faculty judicial committee was to ban LeClair from entering the Barnard cafeteria — not without much irony.

After graduation from Barnard — a ceremony marked by large numbers of newly minted graduates marching in pale blue robes with armbands expressing solidarity with the protesters — I headed to Chicago. Looking for work, I discovered that my Barnard degree in European History *cum laude* meant nothing in the world of commerce. Each employment agency I interviewed with required that I take a typing test for placement in a secretarial position. In September 1969, after a year of working in a quasi-secretarial position, I responded to an announcement on National Public Radio for volunteers placed by the defense staff of the Chicago Conspiracy Trial.

In March of 1969, a federal grand jury returned indictments against key organizers of protests during the 1968 Democratic National Convention: David Dellinger, Bobby Seale, Tom Hayden, Abbie Hoffman, Jerry Rubin, Rennie Davis, John Froines, and Lee Weiner.¹⁴ The criminal case was brought under the antiriot provisions of the 1968 Civil Rights Act, provisions penalizing persons who cross state lines to provoke disorders that were appended to the civil rights bill to insure its passage.¹⁵ Senator Strom Thurmond was responsible for the provisions, known also as the "Rap Brown" law, designed to provide a federal criminal hook to indict political "agitators."¹⁶

¹³ The story was widely covered in the *New York Times*. See, e.g., Deirdre Carmody, *Barnard Unit Against Expelling Girl Who Lives With Boyfriend; Barnard Panel Recommends Girl Stay*, N.Y. TIMES, April 18, 1968, at 1; *Text of Barnard President's Note to Girl*, N.Y. TIMES, April 19, 1968.

¹⁴ *Brief History of Chicago's 1968 Democratic Convention*, CNN POLITICS.COM, <http://www.cnn.com/ALLPOLITICS/1996/conventions/chicago/facts/chicago68/index.shtml> (last visited May 8, 2009). Bobby Seale, head of the Black Panther Party, was severed from the case after he requested the right to represent himself. *Id.*

¹⁵ See 18 U.S.C. § 2101 (2006); see also Bruce D'Amus, *Protest, Scale, and Publicity: The FBI and the H Rap Brown Act*, 35 ANTIPODE 718, 726 (2003).

¹⁶ See D'Amus, *supra* note 15, at 726.

The defendants, from different factions of what was loosely known as The New Left, ranged in philosophy from pacifist to Black Panther. They had planned demonstrations to coincide with the national theater of the 1968 Democratic Convention; some protesting the war in Vietnam, others promoting the culture of the Youth International Party,¹⁷ many feeling that any semblance of the democratic system had irretrievably collapsed after the assassinations of Martin Luther King, Jr. in April 1968 and Robert Kennedy in June 1968.¹⁸ Chicago Mayor Richard Daley was determined to show the protesters who was in charge. Permits for peaceful demonstrations were summarily denied.¹⁹ Chicago police were armed with nightsticks and tear gas, and the National Guard was mobilized.²⁰ Not surprisingly, the inevitable occurred. During the week of August 25, 1968, the Chicago police beat and gassed hundreds of protesters, as news reporters and cameramen recorded the bloody scenes and broadcast them around the world.²¹ Many protesters were jailed.²² In the midst of this, Hubert Humphrey, Lyndon Johnson's Vice President and a vocal supporter of the Vietnam War, emerged as the predetermined Democratic candidate.²³ In November, Richard Nixon was elected President, and his Justice Department, under Attorney General John Mitchell, brought charges against the Chicago Eight.²⁴ The trial was scheduled to begin on September 24, 1969,²⁵ and the defense needed volunteers.

The Chicago Conspiracy defense offices were located at 28 East Jackson Boulevard, in the Loop, a few blocks from the federal courthouse. Upon arrival, the entire staff gathered to greet me. "A volunteer! A volunteer!" they chanted. My first assignments were odd jobs: typing, copying, and stuffing envelopes. Later I was asked to help with witness testimony and legal research, organizing demonstrations and speaking engagements in support of the trial, and finding housing for the many out-of-town witnesses. I also handled layout, art, and design for pamphlets,

¹⁷ The Youth International Party, whose followers were called Yippies, announced themselves as anyone who said, loudly, "Yippee!" DAVID CAUTE, *THE YEAR OF THE BARRICADES: A JOURNEY THROUGH 1968*, 307 (1988). According to Jerry Rubin, they were born at the Pentagon demonstration in October 1967, though "they [had] been developing in the womb of Mother America since the late 1950's." *Id.* A Yippie was a "stoned-idealist, moved by the vision of a future utopia" and alienated by the vast and insane bureaucratic prison of America. *Id.* The Yippie remedy was "happenings, community, youth power, dignity, underground media, music, legends, marijuana, action, myth, excitement, a new style." *Id.*

¹⁸ See Mark R. Elsis, *Thursday June 6, 1968: The Day the United States Died*, July 8, 2001, available at <http://www.robertfkennedy.net/> (last visited May 13, 2009).

¹⁹ See *Brief History of Chicago's 1968 Democratic Convention*, *supra* note 14.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ Prina Lahav, *The Chicago Conspiracy Trial: Character and Judicial Discretion*, 71 U. COLO. L. REV. 1327, 1329-30 (2000).

²⁵ *Id.* at 1347.

posters, and buttons. Within two weeks I was given a paid position on staff and provided with housing in one of the communal apartments in Hyde Park rented for the defendants, attorneys, and staff. The apartment I was assigned to housed defense counsel, Len Weinglass, and Stuart Ball, a recent graduate of Rutgers Law School, and defendants Tom Hayden and, at times, Abbie Hoffman.

Days were spent at the federal courthouse and nights were occupied with trial preparation; lining up as many as eight witnesses for the next day. One of my tasks was accompanying defense witnesses to the witness room before their trial testimony, answering their questions, and reviewing their direct testimony and anticipated cross-examination. In that capacity, I sat with Jesse Jackson, Alan Ginsberg, Dustin Hoffman, Norman Mailer, Judy Collins, Ramsey Clark, Dick Gregory, Roger Wilkins, Timothy Leary, Arlo Guthrie, Country Joe, and others who had participated in, or witnessed, the Chicago demonstrations.

Amid the public showcase of this political trial, it was disconcerting to observe the role of women or, perhaps more accurately, the non-roles of women. During the sixties, even at the height of the civil rights and anti-war movements, women were cast as helpers and sexual partners for men, rarely as serious players. The defendants and their male lawyers were no exception. All had considerably strong egos, and all were partnered with women who made up the core staff of the trial. The majority of the women on staff — smart, well educated, and politically sophisticated women — were either married to, or sleeping with the defendants or their attorneys. Those roles were accepted without protest “for the good of the cause.” But there was a feeling lingering below the surface that something was not quite right. That feeling was intensified the evening that Bernadine Dohrn,²⁶ a leader in the Chicago Weather Underground,²⁷ met with women staffers in our Hyde Park apartment to speak about movement tactics and the political struggle before us from a woman’s point of view, which was a novel perspective at that time.

Assisting in the defense of the trial was my first glimpse of law practice, and, not surprisingly, it looked very different from what I had imagined. It provided a sense of direction that was clearer than ever before, and I knew it was time to apply to law school. There was never a question about which law school to choose. The “People’s Electric Law School,” home base to much of the trial’s legal talent, was the logical option. On February 18, 1970, five defendants were found guilty of crossing state lines with the intent to incite a riot, after having been cited by Judge Julius Hoffman on multiple counts of contempt of court. Two days

²⁶ See Susan Chira, *At Home With: Bernadine Dohrn; Same Passion, New Tactics*, N.Y. TIMES, Nov. 18, 1993, at C1.

²⁷ See generally WEATHERMAN (Harold Jacobs ed., 1970), available at <http://www.sds-1960s.org/books/weatherman.pdf>.

later, they were sentenced to the maximum: five years in prison and five thousand dollars in fines. While the jury was out, I was holed up in downtown Chicago taking the LSAT.

Arriving at Rutgers Law in the fall of 1970, I took my place in an entering class of 320. More than sixty women were enrolled in that class, and for most of us it was difficult to determine whether the uneasiness we felt entering law school was greater than our sense of relief or fear. Working at the Chicago Conspiracy Trial gave me a degree of comfort with the law, but I was unprepared for the atmosphere of law school. In 1970, there were two women faculty members at Rutgers on tenure track, Professors Eva Hanks²⁸ and Ruth Bader Ginsburg (now Justice Ginsburg);²⁹ and two women clinical faculty, Professors Annamay Sheppard³⁰ and Rita Bender.³¹ The remaining faculty members were men, some of whom appeared wholly unprepared for the sizable body of female law students entering the campus. The style of instructional banter from these men was sometimes crude, notably when it came to cases touching on rape or sexuality. I remember being called upon in a first year criminal law class. The issue, oddly, was criminal conspiracy, and after my answer, the professor permanently tagged me “Ms. Langer, The Expert on Withdrawal.”

In 1970, the women’s movement was beginning to take hold, and women’s consciousness-raising groups were being formed. These were informal support groups of women with varied and sometimes vague agendas. The slogan “Sisterhood is Powerful” was a unifying theme, and meeting with a group of supportive women to discuss gender issues during a time of gender evolution was empowering. To mediate my entry into law school, still a male dominion notwithstanding our twenty percent female class, I sought out a women’s consciousness raising group in Newark. I was invited to join a small group of young women that included Ann Marie Boylan, a recent graduate of Rutgers Law School. At an early meeting, Boylan spoke about her efforts to establish a new journal — the *Women’s Rights Law Reporter* (“WRLR”) — in her small Newark apartment. The notion of a legal journal focused on women’s rights and women’s issues was a novel and fairly radical idea at the time. Boylan had managed to publish one issue, but lacked funds and personnel to keep the publication

²⁸ See BENJAMIN N. CARDOZO SCHOOL OF LAW, PROFILE, EVA H. HANKS, <http://www.cardozo.yu.edu/MemberContentDisplay.aspx?ccmd=ContentDisplay&ucmd=UserDisplay&userid=10512> (last visited May 13, 2009).

²⁹ See SUPREME COURT OF THE UNITED STATES, BIOGRAPHIES OF CURRENT JUSTICES, RUTH BADER GINSBURG, <http://www.supremecourtus.gov/about/biographiescurrent.pdf> (last visited May 13, 2009).

³⁰ See RUTGERS SCHOOL OF LAW - NEWARK, FACULTY PROFILE, ANNAMAY SHEPPARD, <http://law.newark.rutgers.edu/our-faculty/faculty-profiles/annamay-sheppard> (last visited May 13, 2009).

³¹ See Skellenger Bender Attorneys at Law, Attorney Detail, Rita L. Bender, <http://www.skellengerbender.com/index.html> (last visited May 13, 2009).

going. To me it made perfect sense that the journal should be housed at Rutgers Law School. A number of my fellow students agreed. "Piece of cake" I thought.

After meeting with Dean James Paul,³² we realized it would not be a "piece of cake." The Rutgers administration was less than eager to embrace the new and financially troubled publication on women's rights. It did not fit any of the existing categories of law journals, and it had no funding. We were told that Rutgers could provide neither funds nor office space nor an affiliation with the Law School. Our only hope for keeping WRLR alive was to raise the needed funds ourselves, find a faculty advisor acceptable to the dean, and negotiate for office space. If these conditions were met, we were told, there was a chance that Rutgers would allow publication of this fledgling journal. Associate Dean Willard Heckel³³ was far more supportive, and urged us to move forward with our plan.

There was enough student interest to begin satisfying the administration's conditions. After some discussion, Professor Ginsburg readily agreed to take on the position of faculty advisor. With the full support of Professor Sheppard, Rutgers' Urban Legal Clinic made space for the WRLR in an old building they occupied behind the main law school facility. An Advisory Board was established including Professor Arthur Kinoy,³⁴ Pauli Murray,³⁵ and Eleanor Holmes Norton.³⁶ Dozens of fundraising letters were mailed out, and we managed to secure a grant of \$1,800 from the Wallace-Eljabar Fund.³⁷ In addition, we received grants from the Women's Division of the Board of Missions of the United Methodist Church, the Women's Center at Barnard College, and the Student Bar Association at Rutgers Law School. The dean's conditions were met, and the WRLR was allowed to reside at Rutgers Law School. Even after meeting Dean Paul's conditions, however, the administration ordered that there was to be no mention of Rutgers Law School in the publication.

A staff of student volunteers was assembled and made collective policy decisions. It was agreed that WRLR would not become a law review, but would remain as a law reporter featuring short articles and continuing case summaries exclusively on women's rights issues. It was also agreed that

³² See RUTGERS SCHOOL OF LAW - NEWARK, FACULTY PROFILE, JAMES C.N. PAUL, <http://law.newark.rutgers.edu/our-faculty/faculty-profiles/james-c-n-paul> (last visited May 13, 2009).

³³ See C. Willard Heckel, 74, Ex-Law Dean, Dies, N.Y. TIMES, Apr. 7, 1988, available at <http://www.nytimes.com/1988/04/07/nyregion/c-willard-heckel-74-ex-law-dean-dies.html> (last visited May 13, 2009).

³⁴ See *supra* note 1 and accompanying text.

³⁵ See The Library of America, Reporting Civil Rights, Reporters and Writers, Pauli Murray, <http://reportingcivilrights.loa.org/authors/bio.jsp?authorId=55> (last visited May 13, 2009).

³⁶ See Congresswoman Eleanor Holmes Norton, <http://www.norton.house.gov/> (last visited May 13, 2009).

³⁷ See The Fund for New Jersey, History of the Fund, <http://www.fundfornj.org/history.html> (last visited May 13, 2009).

WRLR would incorporate graphics, rejecting the look of a typical law journal. Our first issues were collective efforts with a conscious agreement to avoid the usual law review hierarchy. Our first issue at Rutgers was published in the spring of 1972.

WRLR was fortunate to have Professor Ginsburg as faculty advisor. Though her expertise at that time was largely in the areas of Conflict of Laws, Comparative Law, and Civil Procedure, and her published scholarship concerned Sweden's legal system, it was apparent she had a deep interest in women's rights issues. She had authored the American Civil Liberties Union's ("ACLU") brief in *Reed v. Reed*³⁸ in 1971 and was preparing to teach a new seminar on women's rights. As faculty advisor to WRLR, Professor Ginsburg devoted many hours to writing and editing, counseling the staff, attending meetings, and inevitably mediating with the administration when problems arose. Her comment on *Reed v. Reed* appeared as the lead article in the first issue published at Rutgers.³⁹

By the spring of 1973, WRLR had published three issues at Rutgers. There were ten student editors and thirty-five students on the editorial staff. The process of bringing the WRLR to Rutgers, working with Professor Ginsburg, organizing a cadre of students and faculty to support the publication, raising the necessary funds, and publishing the journal had a lasting impact on the editors and staff. Many of us felt that the skills we had developed through our work on WRLR and our work on women's issues should be directed towards a career in the field of women's rights. It was an optimal direction for post-law school employment.

During the spring semester of 1973, I was preparing for law school finals just as the Washington Post broke the story of James McCord's letter to Judge John Sirica charging a Nixon cover-up of the break-ins at the National Democratic Headquarters in the Watergate Office complex.⁴⁰ I had heard through the Capitol Hill Women's Political Caucus that Senator Edward Kennedy, the junior Senator from Massachusetts⁴¹ and Congresswoman Bella S. Abzug of New York⁴² — an outspoken supporter of women's rights — had openings for a legislative assistant. I forwarded my resume and was given interviews for both positions.

My first appointment was with Edward T. Martin, Senator Edward Kennedy's chief Administrative Assistant. After an interview lasting more than forty-five minutes and covering many legal and political issues, Mr.

³⁸ *Reed v. Reed*, 404 U.S. 71, 75 (1971) (unanimously holding that an Idaho statute which gave men preference over women in administering decedents' estates was unconstitutional).

³⁹ Ruth Bader Ginsburg, *Comment on Reed v. Reed*, 1 WOMEN'S RTS. L. REP., Spring 1972, at 7.

⁴⁰ See *James McCord's Letter To Judge Sirica*, WATERGATE.INFO, http://www.watergate.info/chronology/73-03-19_mccord-letter-to-sirica.shtml (displaying *James McCord's March 19, 1973 letter to Judge Sirica*) (last visited May 11, 2009).

⁴¹ See Senator Edward M. Kennedy, <http://kenedy.senate.gov/> (last visited May 13, 2009).

⁴² See Jewish Women's Archive, Biography, Bella Abzug, <http://jwa.org/exhibits/wov/abzug/> (last visited May 13, 2009).

Martin said: "The Senator has dozens and dozens of women volunteering to work for him in Massachusetts and Washington. Every day the office receives more resumes of volunteers. Why should the Senator pay a woman to work as legislative assistant?" I had a sense that I would not be welcomed into Kennedy's office, and moved on to my next interview.

At Bella Abzug's office, I was warned by sympathetic staffers that working for Bella was challenging. She was known as a tough task master, very demanding, and often inconsiderate of her staffs' personal lives. The interview was pleasant and uneventful. Several weeks later, I was offered the job of legislative assistant and, duly warned, I began work immediately after law school graduation in June of 1973.

Bella was tough, loud, often intimidating, and expected her legislative assistant to match her work hours — nine a.m. until ten or eleven p.m. Sometimes staff members were allowed a thirty-minute break for lunch or dinner. She easily earned the moniker "Decibella" from her staff. The first time I heard her referred to as the "gentlewoman" from New York as was the custom on the floor of the House, I shook my head in disbelief. I had been warned about her temper, but no one had prepared me for her sheer brain-power. Bella was one of the smartest people I had ever met. Working for her was a privilege.

My responsibilities included reading the daily Congressional Record cover-to-cover, briefing the Congresswoman on the daily floor and committee votes, drafting testimony and speeches, and preparing legislation. My assigned substantive areas included information and privacy, sex discrimination, handicap discrimination, consumer protection, and the impeachment proceedings against Richard Nixon, which were before the House Judiciary Committee.⁴³ The Congresswoman had been instrumental in bringing an impeachment resolution following the Watergate break-in.⁴⁴

It was an eventful year on Capitol Hill. We managed to pass major amendments to the Freedom of Information Act,⁴⁵ the Privacy Act,⁴⁶ and the Women's Educational Equity Act.⁴⁷ There was testimony, research, and speeches supporting the congressional impeachment efforts and opposing the escalating war in Vietnam, as well as repeated attempts to block funding for the war through appropriations legislation.

⁴³ On the staff of the Impeachment Inquiry of House Judiciary Committee was a smart young woman attorney, Hillary Rodham, one of the few women lawyers employed as Committee staff.

⁴⁴ See Gaddis Smith, *A Mostly Sorry Story: The American Way of Impeachment*, N.Y. TIMES, May 27, 1973, at 10.

⁴⁵ See 5 U.S.C. § 552 (2006) (current version).

⁴⁶ § 552(a).

⁴⁷ See Barbara Stahura, *Making the Grade: Women and Girls Gain in Education*, SOROPTIMIST, http://www.soroptimist.org/articles/article_education.html (citing the Women's Educational Equity Act of 1973 as promoting gender equality in the classroom) (last visited May 13, 2009).

But the progressive politics in Bella's office were marred by the "Men's Club" atmosphere on Capitol Hill. Not long after I began working there, a close friend who worked for Congressman Richard C. White of Texas, was married. Upon return from her honeymoon, she confided that the Congressman's office had reduced her salary substantially. "Why?" I asked. She responded that the office policy, across the board, was to reduce women staff member's salaries when they got married.⁴⁸ Was she upset? "Well, yes, but, that's just the way things are on the Hill."

During the fall of 1973, as the impeachment process was underway, Archibald Cox,⁴⁹ the independent special prosecutor appointed by Attorney General Elliot Richardson, subpoenaed the newly revealed tape recordings of Nixon made by automatic listening devices installed in the Oval Office.⁵⁰ It was widely believed that the tapes would provide evidence linking Nixon to the Watergate break-in and cover up. Nixon refused to release the tapes, citing the principle of executive privilege, and ordered Cox, by way of Attorney General Richardson, to drop the subpoena.⁵¹ Cox refused, and on October 20, 1973, Nixon ordered Richardson to fire Cox.⁵² Richardson and his top deputy refused, and both were promptly fired by Nixon during what came to be known as "The Saturday Night Massacre."⁵³ The search to find someone to dismiss Cox ended with Solicitor General Robert Bork, next in line at the Justice Department, who finally terminated the "independent" counsel.⁵⁴

Congresswoman Abzug was one of the Congressional plaintiffs who reacted quickly to Cox's dismissal by bringing suit in federal district court to invalidate Acting Attorney General Bork's order.⁵⁵ Judge Gerhard Gesell's order was swift, decisive and favorable — Members of Congress had standing to contest the firing of the special prosecutor, and the firing was illegal.⁵⁶ Alan B. Morrison, an attorney with Ralph Nader's Public Citizen Litigation Group, handled the case with great skill.⁵⁷

⁴⁸ Congress had exempted itself from the employment discrimination provisions of Title VII however that exemption was abolished in the Civil Rights Act of 1991. See 42 U.S.C. § 2000e (2006) (current version).

⁴⁹ See Archibald Cox, 92, *Is Dead; Helped Prosecute Watergate*, *supra* note 12.

⁵⁰ See *The Watergate Story Part 2: The Government Acts*, WASH. POST, <http://www.washingtonpost.com/wp-srv/politics/special/watergate/part2.html> (last visited May 13, 2009).

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ See *Nader v. Bork*, 366 F. Supp. 104, 109-10 (D.D.C. 1973), *vacated sub nom. Nader v. Levi*, No. 1954-731975, 1975 U.S. Dist. LEXIS 16791 (D.D.C. Oct. 29, 1975).

⁵⁶ The court declined to issue an injunction requiring the reinstatement of the special prosecutor on the ground that Cox was not a plaintiff in the suit. Nonetheless, the declaration that the firing had been illegal was a powerful political victory against President Nixon. *Nader*, 366 F. Supp. at 109-10.

⁵⁷ See Public Citizen, *Public Citizen's Role in Obtaining Nixon Watergate Tapes*, <http://www.nuclearenergy.org/about/articles.cfm?ID=13503> (last visited May 13, 2009).

Assisting with the preparation of *Nader v. Bork* and watching its denouement was profoundly affecting. The fact that a judicial decision rendering the President's act illegal could be made so quickly and decisively struck me as rather remarkable. During years spent writing articles and speeches, protesting, organizing demonstrations, and drafting legislation, I had never seen so much accomplished in so little time. Civil litigation was a process with the power and potential to effect significant political change. It was a skill I was eager to learn.

In Washington, D.C., there were three top-notch training grounds for litigation: the U.S. Attorney's Office, the Public Defender's Office, and the Civil Division of the Department of Justice. Because my interest was on the civil side, I opted for the Civil Division. I forwarded my resume to the Department of Justice ("DOJ") and, in 1975, I was offered a position in the Economic Litigation Section under the direction of Stanley Rose. The section, affectionately known as "Stanley's Harem" was more than eighty percent women attorneys — unusual even for the federal government. I once asked Stanley why he had hired so many women. His answer was direct: "When a male lawyer doesn't know an answer, he doesn't ask for help. He makes a mistake, and I usually don't hear about it until it's too late. When a woman lawyer is uncertain, she asks for help. In any case," he concluded with a smile and a wink, "women are smarter — and nicer, too."

On my first day at the Department of Justice, I was given responsibility for forty-five cases. The daily pressures of working for Congresswoman Abzug had been good preparation for the pace of litigation, and the hours — nine a.m. to five-thirty p.m. — were infinitely better. I handled dozens of significant cases from a challenge to the constitutionality of the National Flood Insurance Act⁵⁸ in Massachusetts; to energy regulatory challenges in Texas, Ohio, and Nevada; to contractor retainage suits against the Department of Housing and Urban Development in the Virgin Islands; to Renegotiation Act⁵⁹ cases in California. Two years later, I moved to the Court of Claims Section and tried Tucker Act⁶⁰ litigation seeking money damages against the United States. The work was challenging, and the victories were palpable. Significantly, my DOJ supervisors treated women attorneys as professionals at a time when women in the legal profession

⁵⁸ See 42 U.S.C. §§ 4001-4129 (2006) (current version).

⁵⁹ See 50 U.S.C.S. App. §§ 1211-1217 (2009) ("These sections were omitted as terminated on the authority of former 50 U.S.C.S. App. § 1212(c)(1), which provided that 50 U.S.C.S. App. §§ 1211-1217 were not applicable to contracts to be performed after Sept. 30, 1976, and in light of the abolition of the Renegotiation Board by Act Oct. 10, 1978, P.L. 95-431, Title V, § 501, 92 Stat. 1403. Section 1211 provided for a declaration of policy by Congress; § 1212 provided for contracts subject to renegotiation; § 1213 provided for definitions; § 1214 provided for renegotiation clauses in contracts; § 1215 provided for renegotiation proceedings; § 1216 provided for exemptions; and § 1217 established the Renegotiation Board.").

⁶⁰ See 28 U.S.C. § 1491 (2006) (current version).

were viewed as oddities. The Appellate Division was well known for accommodating working mothers with manageable caseloads, limited travel, and predictable schedules. When I voiced regret about not spending more time with my young son to a supervisor, I was told (quietly) that I could leave work at three p.m. two or three times a week as long as I managed my caseload. “Just don’t tell the Assistant Attorney General,” my sympathetic male boss cautioned.

In 1979, The Honorable Patricia Wald,⁶¹ who had just been appointed to the D.C. Circuit by President Carter, was a guest speaker at the Department of Justice, sponsored by the D.C. Women’s Bar Association. She was intelligent, approachable, candid, and funny. Most importantly, Judge Wald was quick to acknowledge the difficulties and pleasures of combining motherhood and a legal career. Not long after graduating from Yale Law School, she had dropped out of the professional world to raise children and did not return for ten years. Despite the glaring gap in her resume, she resumed the practice of law and thrived, reentering through the public interest law arena and eventually becoming Chief Judge of the D.C. Circuit Court of Appeals.⁶²

The resume gap was something women professionals feared most. We were beginning to achieve positions of power and responsibility, but many of us wanted children and family life. It was the desire for life balance and control over my schedule that finally drove me to leave the Department of Justice and open a law practice in 1983. In that varied practice, my first clients were the people of Bikini Atoll who were seeking damages from the United States for the destruction of their homeland as a result of the nuclear testing program during the 1950’s and 1960’s. Providing representation to those individuals who were historically underrepresented in our legal system was a mantra I learned at Rutgers Law School. Women’s issues became a recurring theme of my solo practice, and I took on cases in the areas of family law, marital property, prenuptial agreements, gender and pregnancy discrimination in employment, and civil sexual assault. My volunteer activities included providing counsel to the National Women’s Health Network,⁶³ briefing privacy issues in Dalkon shield litigation⁶⁴ for the Women’s Legal Defense Fund,⁶⁵ a monthly column on women’s issues in a regional publication, *Women Today*, and producing and hosting a DC-

⁶¹ See American Constitution Society, Patricia M. Wald, <http://www.acslaw.org/node/2056> (last visited May 13, 2009).

⁶² *Id.*

⁶³ See NATIONAL WOMEN’S HEALTH NETWORK, <http://www.nwhn.org/> (last visited May 13, 2009).

⁶⁴ See Linda Greenhouse, *Court Rejects Challenges to Dalkon Accord*, N.Y. TIMES, Nov. 7, 1989, available at <http://www.nytimes.com/1989/11/07/business/court-rejects-challenges-to-dalkon-accord.html>.

⁶⁵ See LEGAL MOMENTUM, <http://www.legalmomentum.org/> (founded in 1970 as NOW Legal Defense and Education Fund) (last visited May 13, 2009).

TV cable television series, *The Family Lawyers*, in association with the District of Columbia Women's Bar Association.⁶⁶

One of the civil sexual assault cases I handled, *Doe v. Dominion Bank of Washington*,⁶⁷ provided a poignant connection to my experiences at Rutgers Law School and the exceptional group of women who worked to establish a home for the WRLR. In May of 1989, I agreed to represent a young woman who had been raped on a weekday morning in an office building located at 1430 K Street in the District of Columbia. The suit was against Dominion Bank, holder of the master lease, for its failure to provide adequate security to its commercial tenants. After a one-week jury trial⁶⁸ in the District Court for the District of Columbia, Judge Thomas F. Hogan issued a directed verdict against my client on the ground that she had not established that the rape was foreseeable, despite ample evidence in the record of prior criminal acts in the building. On appeal to the Court of Appeals for the District of Columbia Circuit, I was elated to find our WRLR faculty advisor, the Honorable Ruth Bader Ginsburg, sitting on the appellate panel. Judge Ginsburg easily grasped the significance of the case, and authored a forceful opinion reversing the directed verdict and holding that Doe had presented sufficient evidence to create a jury question on the foreseeability of the rape.⁶⁹ Shortly after Judge Ginsburg's decision was issued, a significant settlement offer from Dominion Bank was accepted. Judge Ginsburg's opinion helped my client gain the self confidence and empowerment that often accompanies a civil suit for sexual assault. Moreover, it altered the accepted parameters of security for commercial tenants in the District of Columbia. Bringing this appeal before the D.C. Circuit and receiving a tangible victory from the very same law professor who helped ensure the success of the WRLR recalled my experiences at Rutgers Law twenty years earlier and reinforced the importance of studying law for the sake of empowering those without easy access to the judicial system.

The road to and from Rutgers Law School has been laden with challenges — invidious and subtle sexism in our educational system, employment, and the court system, the ever-present “glass ceiling,” inadequate institutional responses to day care and family needs, and the failure of fathers to assume adequate responsibility for parenting. But there

⁶⁶ See WOMEN'S BAR ASSOCIATION OF THE DISTRICT OF COLUMBIA, <http://www.wbadc.org/> (last visited May 13, 2009).

⁶⁷ *Doe v. Dominion Bank of Washington, N.A.*, 963 F.2d 1552 (D.C. Cir. 1992).

⁶⁸ *Doe v. Dominion Bank* had far-reaching repercussions on my professional life as well, but not in any predictable manner. One of the jurors in the Doe trial was William Christenberry, an important Washington artist and teacher at the Corcoran College of Art. His painting classes were known as among the best in the city. Having noticed him at the trial, I enrolled in his painting class. I studied with him for six years. Recently I traded my law office for a studio. Trained by Bill Christenberry, a superb artist and teacher who happened to be on the Doe jury in 1991, I have been painting, exhibiting and selling my work. Elizabeth Langer, <http://www.elizabethlanger.com> (last visited May 13, 2009).

⁶⁹ *Dominion Bank of Washington*, 963 F.2d at 1552.

have been impressive victories and genuine progress. On the federal level, major legislation, including Title VII prohibiting sexual harassment and discrimination in the workplace⁷⁰ and Title IX banning sex discrimination in education,⁷¹ has been enacted. On the state level, equal rights provisions have been incorporated into many state constitutions.⁷²

In 1910, women made up only one percent of lawyers nationally.⁷³ The figure had risen to 4.7 percent by 1970, the year WRLR came to Rutgers Law School.⁷⁴ It grew to twenty-three percent by 1994, and just over twenty-nine percent by 2002.⁷⁵ The national percentage of law students who were women was 8.6 percent in the 1970-1971 academic year.⁷⁶ That figure was close to forty-seven percent for the 2007-2008 academic year.⁷⁷ Just over thirty percent of tenure-track law school faculty were women in 2007-2008.⁷⁸

Women have made vast progress during the last forty years, but many critical issues remain. Comparable worth remains unresolved, family and medical leave remains unpaid, day care remains inadequate, and the right to abortion remains fragile and could be reversed. The conditions of women in many Third World nations are perilous. But the signs are promising. The first substantive legislation signed by President Barack Obama was the Lilly Ledbetter Fair Pay Act,⁷⁹ providing a more flexible statute of limitations for the filing of equal pay suits in sex discrimination cases than was found in *Ledbetter v. Goodyear Tire*.⁸⁰ President Obama's nomination for the Supreme Court's Souter chair, Judge Sonia Sotomayor, was drawn

⁷⁰ 42 U.S.C. § 2000e (2006).

⁷¹ 20 U.S.C. §§ 1681-1688 (2006).

⁷² See generally LESLIE W. GLADSTONE, AMERICAN NAT'L GOV'T SOCIAL POL'Y DIV., EQUAL RIGHTS AMENDMENTS: STATE PROVISIONS (2004) (Congressional Research Service report for Congress), available at <http://digital.library.unt.edu/govdocs/crs/permalink/meta-crs-7397:1>.

⁷³ U.S. History Encyclopedia, Women in Public Life, Business, and Professions, <http://www.answers.com/topic/women-in-public-life-business-and-professions> (last visited May 13, 2009).

⁷⁴ *Id.*

⁷⁵ AMERICAN BAR ASSOCIATION COMMISSION ON WOMEN IN THE PROFESSION, CHARTING OUR PROGRESS: THE STATUS OF WOMEN IN THE PROFESSION TODAY 4 (2006), available at <http://www.abanet.org/women/ChartingOurProgress.pdf>.

⁷⁶ The American Bar Association Section on Legal Education and Admissions to the bar gathers data every year. FIRST YEAR AND TOTAL J.D. ENROLLMENT BY GENDER 1947-2007, <http://www.abanet.org/legaled/statistics/charts/stats%20-%206.pdf> (last visited May 13, 2009).

⁷⁷ *Id.*

⁷⁸ PATTI ABDULLINA, ASSOCIATION OF AMERICAN LAW SCHOOLS STATISTICAL REPORT ON LAW FACULTY 24 (2007-2008), available at <http://www.aals.org/statistics/report-07-08.pdf> (last visited May 13, 2009).

⁷⁹ Kate Pickert, *Lilly Ledbetter*, TIME.COM, Jan. 29, 2009, <http://www.time.com/time/nation/article/0,8599,1874954,00.html>

⁸⁰ 550 U.S. 618 (2007).

from a list of experienced, strong and liberal women.⁸¹ Judge Sotomayer was approved thirteen to six by the Senate Judiciary Committee on July 28, 2009 and confirmed by the full Senate on August 6, 2009 by a vote of sixty-eight to thirty-one.⁸² And in Kuwait, four women have recently won seats in the parliamentary elections, a historic first.⁸³ The issues are not insurmountable, but there is much work to be done.

⁸¹ Edwin Chen, *Obama's List of High Court Nominees Led by Political, Diverse Women*, WASH. EXAMINER, May 9, 2009, available at <http://www.washingtonexaminer.com/politics/Obamas-list-of-high-court-nominees-led-by-political-diverse-women-44615322.html>.

⁸² Deborah Charles, *Obama Supreme Court Pick Sotomayer Clears Panel*, WASH. POST, July 29, 2009, available at <http://www.washingtonpost.com/wp-dyn/content/article/2009/07/29/AR2009072901470.html>; Charlie Savage, *Sotomayer Confirmed by Senate*, 68-31, N.Y. TIMES, Aug. 7, 2009, at A1.

⁸³ Robert F. Worth, *First Women Win Seats in Kuwait Parliament; Political Deadlock Seems Likely to Continue*, N.Y. TIMES, May 18, 2009, at A4.