THE WOMEN OF 1964: PAVING THE WAY

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I. INTRODUCTION

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Cambridge 38, Mass.

OFFICE OF THE DEAN

May 11, 1949

Dear President Conant,

I am writing this letter to transmit to you a vote taken by the Faculty of the Law School at a meeting held on May 10, 1949. The Faculty voted to recommend to the governing boards that beginning in the fall of 1950 qualified women applicants be admitted to the Law School as candidates for our degrees . . . . The vote of the Faculty was 22 in favor of the recommendation, and 2 opposed . . .

Very truly yours,
Erwin N. Griswold
Dean

Fifty years. Half a century. It is a long time. Yet, given the centuries-long history of the exclusion of women from virtually all corridors of American law, it is a nanosecond. The extraordinary progress of women in the legal profession is mirrored at Harvard Law School where, in five challenging decades, women have gone from a tiny minority to almost a majority of students, now led by a charismatic woman dean. Fifteen brave women graduated from Harvard Law School in 1964, and last spring, only thirty-nine years later, 263 women graduated, representing

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1 Letter from Erwin N. Griswold, Dean, Harvard Law School, to James Bryant Conant, President, Harvard University (May 11, 1949) (available at Dean’s Files, Harvard University Archives).
forty-six percent of the class of 2003. This achievement reflects the changed face of the law—and of the nation.

When the fifteen women (and more than 500 men) in the class of 1964 graduated from Harvard Law School, less than three percent of all lawyers, and all law students, nationwide were women. Only three federal judges were women. There were no women law professors or administrators at Harvard; nationwide, only a handful of women taught law, virtually none of whom held the title of professor. The women in my class had few, if any, female role models. In 1964, there had been no women attorneys general, cabinet secretaries, governors, or national security advisors. The few women who had served in Congress were, almost without exception, widows of men who had died in office. There were no women law deans. In 1961, the year we entered law school, Betty Friedan had not yet published *The Feminine Mystique*. Martin Luther King had not yet galvanized the nation with his “dream”; there was no federal legislation guaranteeing equal pay or equal rights. There was no “pill” and in most states it was illegal to distribute any kind of birth control to single women. Such was the landscape of the legal profession and our society.

II. THE EXPERIENCE OF THE WOMEN OF THE CLASS OF 1964

The women of the class of 1964 had no rational basis for believing that the things mentioned above would change permanently during the

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4 Judge Burnita Shelton Matthews, Judge Sarah Hughes, and Judge Florence Ellinwood Allen were the first three women federal judges. Ruth Bader Ginsburg, *Foreword to Symposium: Women, Justice, and Authority*, 14 Yale J.L. & Feminism 213, 213 (2002).
7 Martin Luther King, Jr., *I Have a Dream*, Address at the March on Washington, D.C., for Civil Rights (Aug. 28, 1963).
11 See Eisenstadt v. Baird, 405 U.S. 438 (1972) (holding that a Massachusetts statute prohibiting the distribution of contraception to unmarried, but not to married, persons violated the Fourteenth Amendment’s equal protection mandate).
three years we were in Cambridge and absolutely no reason to predict
that we would join the tiny but (thankfully) growing cadre of brave souls
who would build bridges to an equality of opportunity in all parts of our
profession, equality which we now take almost for granted. We helped pave
the way for others not by whining, petitioning, marching—these were tactics
our 1950s generation knew little about. Rather, we determined always to do
our best, to work hard, to strive for excellence each day, and, perhaps
most importantly, to help each other and to never, ever give up.

Despite what may be considered insurmountable barriers, we made it
through. Among us, we faced blatant religious, racial, and gender discrimi-
nation. We were frequently subjected to sexual harassment. We have suf-
fered through severe depression, attempted suicide, miscarriages, searing
divorces, life-threatening illnesses, and the deaths of children and parents.12
Professionally, we have been double-crossed, passed over, fired, and de-
feated in campaigns for law firm leadership and elected public office. We
have lost opportunities to those less qualified, less able, and we have
been paid less than others who did less work and performed less well.

Above all, three things kept us going: our instinct for survival, honed
as tiny children during the darkest days of World War II, and later, during
the Cold War;13 our confidence in ourselves, secure in the knowledge that
we had the total support of our fathers, and that our mothers—and, thus,
we—could somehow manage to do it all; and our reliance on our network:
our sisters in law, our classmates and professors, and the invaluable cre-
dentials we earned at Harvard.

Most of the women in Harvard Law School’s class of 1964 came
from the middle of the socioeconomic spectrum or lower.14 Perhaps for
that very reason, we had less of a stake in preserving traditions such as
the “men’s club” of the legal profession that served as our point of refer-
ence when we entered law school. We had become untethered from our
pasts: there were no Harvard legacies among us, no celebrities in our
families, and no fathers (or mothers) who were lawyers.15 We went di-
rectly against the prevailing “wisdom” of our era, that “[w]omen who work
in male-domina-ted occupations in particular are of-
ten thought to be
sexless” and “the antithesis of the feminine woman.”16 Most of us mar-
ried, most of us had children, and most of us now have grandchildren.

We have also had exciting, productive careers. Of the fifteen of us,
four became full-time professors.17 One of us, Grace Weiner Wolf, founded

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12 Richards Hope, supra note 3, at 208.
13 Id. at xxi.
14 Id. at 18.
15 See generally id. at 35–78 (describing the upbringing and family backgrounds of the
women of the class of 1964).
16 Cynthia Fuchs Epstein, Woman’s Place: Options and Limits in Professional
17 Ann Dudley Cronkhite Goldblatt (University of Chicago), Diana Gordon Lorenz
(City University of New York), Aurelle Smoot Lock (University of Hartford Business School),
a legal publishing company and became a community activist and volunteer; one, Alice Pasachoff Wegman, rose to become a senior lawyer for the federal government as Counsel to the Environmental Appeals Board of the Environmental Protection Agency. Four of us spent most of our careers in private practice. Rosemary Cox Masters left a promising career in criminal justice, repotted herself, and is now a prominent Manhattan psychotherapist. Two of us broke through in state and local government. Judge Judith W. Rogers sits on the U.S. Court of Appeals for the D.C. Circuit. Patricia Scott Schroeder was the most senior congresswoman in the U.S. House of Representatives before she left to become president of the American Book Publishers Association. There is a lot to be said for having nowhere to go but up.

III. THE EXPERIENCE OF WOMEN LAWYERS TODAY

When we started, law was a fraternity in every sense—a brotherhood bound together by tradition, education, experience, and centuries of history. Except for the woman holding the scales of justice, law came complete with fraternity paraphernalia: exclusive men’s clubs where the deals were struck, old boys’ network that parcelled out opportunities, all-male lounges in many courthouses and legislatures where cases were settled and legislation negotiated, men’s executive washrooms in law firms and corporations, and the robing room of the United States Supreme Court.

Things are, of course, much better today for women lawyers, legislators, and judges, but it is still not easy for those of us who want to have both a legal career and a family. Now, especially for women lawyers in their early years, there are vast opportunities in all parts of the profession. Women may not always be welcome everywhere, but they are admitted and encouraged to move ahead. Yet we remain challenged by the ever present conflicts of work and family. The demands of law practice intensify at virtually the same time women may want to start families and need ample time to care for young children. Few are as capable at multitasking as Justice Ruth Bader Ginsburg, who was elected to the law reviews at both Harvard and Columbia Law Schools while she was married and a mother.

This year, my law firm, Paul, Hastings, elected a litigator with a nationwide trial practice and a two-year-old son, to partnership. She never

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18 Arlene Lezberg Bernstein (Law Offices of Arlene Bernstein); Barbara Margulies Rossotti (managing partner of Shaw, Pittman LLP); Judith Richards Hope (senior advisor to and former partner and co-founder of the Washington, D.C., office of Paul, Hastings, Janofsky & Walker LLP); and Nancy Kuhn Kirkpatrick (retired partner of Cohen Swados Wright Hamlin Bradford & Brett LLP).
19 Marjory Freinicle Haskell served for many years as vice mayor and city council-member of Oakland, California; Sonia Faust is the Assistant Attorney General of Hawaii.
lets her clients down, yet, when she is not on the road trying a case thousands of miles from home, she arrives at the office at ten rather than nine so that she may devote a few hours each morning to her son. When she is out of town, her husband (also a successful lawyer) reorders his schedule to do the same.

Unlike fifty, or even ten, years ago, challenging part-time work in law firms is now available. Two of Paul, Hastings’s brightest stars, for example, have removed themselves from the partnership track for the time being: they work seventy percent schedules to make time for their young children. It is important to reveal, however, that a seventy percent commitment today requires billing 1400 hours a year, the exact number of billable hours that comprised a full-time partner’s annual budget expectation twenty-two years ago when I joined Paul, Hastings. These successful women practitioners have full-time nannies, supportive husbands, and nearby, caring grandparents. They are capably juggling their complicated lives of family and work, but, like most women lawyers, they have little time for themselves. Sometimes they wonder if the struggle is worth it, but they never quit. They are making big contributions to their clients. Their children are doing well. They are still married to the same husbands.

I have had all the same conflicts, questions, and probably even more guilt about my family responsibilities during the four decades I have been a practicing lawyer. Even today, I sometimes wonder if I made the right choices. My children are now adults, but I still find insufficient time for myself. As Justice Sandra Day O’Connor told me, “Those problems never change and they never will.” Starting in 2004, I will try to do better. But as Picasso stated, “What one does is what counts and not what one had the intention of doing.” It is just as true for women who yearn for productive, creative lives at work and at home.

IV. The Future Experience of Women Lawyers

We must never forget the pioneers who blazed the trails for us. We must never forget that we owe not only a debt of gratitude to them but an obligation to those who follow us to keep those trails open and wide. As an example of a woman who has successfully “done it all,” I think of Sandra Day O’Connor, who took five years off to have three sons, then returned to work terrified that, if she did not go back that soon, she would never be able to return. She told me, “Two things were clear to me from

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20 Richards Hope, supra note 3, at 258.
21 Telephone Interview with Sandra Day O’Connor, Associate Justice, Supreme Court of the United States (Mar. 18, 2002).
the outset: I wanted a family. I wanted to work—I love to work.”23 We also think of Ruth Bader Ginsburg, married, a mother, and an editor of both the Harvard and the Columbia Law Reviews during her law school years. She told us in 1993 at Celebration 40, “When I graduated from Columbia Law School in 1959, not a law firm in the entire city of New York would employ me. I struck out on three grounds: I was Jewish, a woman, and a mother.”24

Inspired by such women’s remarkable success in the face of many obstacles, we must remember to follow our dreams, to do what we want, to help each other, and to keep the old girls’ network alive and crackling. Our dreams, our goals, our network, our extraordinary training at Harvard Law School—these are our greatest assets, our greatest strengths. If we listen to those dreams, they will help us; indeed they will make us. If that is doing it all, so be it! That is, in the end, all there is. We should take joy in that and forget the guilt of undone laundry, unmanicured nails, and unbaked cookies.

23 Interview with Justice O’Connor, supra note 21.