

## **REAL PEOPLE, REAL LAWYERS**

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I'd like to think it was the well crafted policies and the inspiring classroom discussions.. But it was really the lasagna and toy robots.

If you asked me to list things I did as Dean of Students that left a lasting mark, I might mention improved communication channels with students, reforms in the way student organizations are run, increased programming on public interest law and career and life choices, development of policies on free speech and on academic waivers.

But when I talk to former students, here's what they mention: bringing my Consumer Law class home for dinner; retying someone's drooping scarf before she walked into an interview; listening to a student's deep sadness as he talked of his parent's divorce; judging the costume competition at a student Halloween party; talking with someone about his career choices while my son's Optimus Prime robot kept reciting battle cries in the background;

And I guess I wouldn't have it any other way.

When someone mentions the "caring professions, law is usually not the first thing that comes to mind. Traditional legal education teaches us to value intellectual, abstract notions of justice and rights, not primarily effects on other people. Students may even be given the explicit message that paying too much attention to others is bad: When I took criminal law, the professor told us colorful stories of clients he had represented. He pointed out quickly, though, that he always chose to represent people who were most likely guilty, so he wouldn't feel so bad if they lost.

But in my view, the best lawyers are the ones who do care – about their clients, about their co-workers, about their students, about their families, about their communities. And for the sake of the profession and of students themselves, we should work harder at mentoring these skills.

I loved law school (who doesn't love being a student at Yale?), but never completely lost the feeling that something about it didn't "fit" as well as I would have liked. I wasn't sure whether I could, or even wanted to, be like most of the lawyers I saw. And a large part of this is that students don't see lawyers – women, men, teachers, practitioners – comfortably showing their human side.

I had some brilliant professors. They were giants in their fields and masterful in the classroom. But what I remember best about those whom I admired most is not their cutting-edge scholarship, it's that they were good people. Tom Emerson was typical. He was an inspiration to generations of students – a New Deal reformer; a tireless fighter for civil liberties. But for me, it was the time that he graciously accepted an invitation to a badly-cooked dinner with me, my roommate and a few friends at our small student

apartment that left the most lasting impression. Listening to his stories of landmark Supreme Court and legislative victories, conveyed with his usual gentleness and modesty, and watching his respectful and affectionate interactions with his accomplished wife Ruth, taught me more about the kind of lawyer I wanted to be than any classroom debate.

I didn't have any labels for it then, but I knew that the real value of legal education was going to come as much from the people around me as from the books in the library. During the fall of my second year, Yale service workers, including those in the dining halls, were on strike (history obviously repeats itself). My friends and I bemoaned how much we missed the long, leisurely chats we all had over lunch and dinner, and felt bad for the incoming 1L's who were missing out on the center of social activity – the dining hall. So my roommate Pat and I marched into the Dean of Students' office and proposed that we be given a modest budget to plan a law school-wide dance party as a way of bringing everyone together. The Dean agreed, we madly taped our favorite songs, and threw a huge party in the dining hall. This bonding exercise was so successful, we were given funds for several more. I'm not so sure that "Heatwave" and "Jumping Jack Flash" meet a scientific standard for community building tools, but even to this day, most of our classmates mention those parties when they run into Pat or me.

But "real" lawyers are always supposed to care more about the Rule Against Perpetuities than about playing Trivial Pursuit with friends, right? I wish I'd had more role models in law school who illustrated how to balance the different parts of their lives and personalities. As a student, I was fascinated by these new intellectual aspects of the law, but I was also interested in movies and rock music and women's history, and most of the lawyers I saw around me seemed uninterested, or at least reluctant to admit an interest, in anything outside the law. Most of all, I wanted to be not just a good lawyer, but a good person – a person who cared about her family and friends and work colleagues, and treated them with respect and gentleness, regardless of deadlines, or time crunches, or academic pressure or career ambitions.. And I wasn't sure whether – or how - all that fit together.

This dilemma can be particularly hard for women. The disconnect between the the "connectedness" that many women are used to and want, and the dispassionate, competitive atmosphere of legal education has been described insightfully by Deborah Rhode (cite) , Lani Guinier (cite) and many others. And we still live in a society – even with Ally McBeal and the Practice – in which unspoken assumptions about how a "woman" should look and act and how a "lawyer" should look and act can collide.

Fast forward ten years. I was now Dean of Students at Harvard Law School, but thinking of myself as a mentor was not something that came naturally..Up to that time I had clerked for a federal judge, practiced in a small public interest firm, and worked as both a litigator and regulator for the government. I had served as chair of a bar committee and president of the state Women's Bar Association, but like everyone, I still had lots of questions. Coming to Harvard, I was now a mentor to students whether I liked it or not; yet lots of the time I felt I needed my own mentors to maneuver through these mysterious new paths of legal education.

When I had accepted the job, I spent the weeks prior to my start date quizzing former Harvard students about suggestions they might have. One said to me, “It would be a huge thing to see someone in authority walk down the hall smiling.” To the extent I could, I vowed to smile.

It wasn’t always easy. I had some fantastic women colleagues, like Martha Minow and Kathleen Sullivan, whom I looked to for advice and support and tips. But because there were so few women lawyers around who seemed to be like me, it took me some time to feel comfortable just being myself. It became clear to me, though, that being oneself is one of the important ways to mentor students. There’s not just one way to be a good lawyer, and helping students accept and rely on their own personal strengths and values is one of our most important jobs as educators.

There were, of course, lots of minefields. Harvard at that time was on the front lines of debates about racial and gender diversity in legal education, and those debates arose in all kinds of contexts. Once, after a woman student had been booed by classmates for a comment she made which was perceived by some to have been biased in favor of women, the faculty member wanted to have an explicit discussion with the class. He asked Professor Charles Ogeltree and myself to come to the class to talk briefly about how in the “real world” our experiences as lawyers had been shaped by our race or gender.

This felt to me like an important “teachable moment”, as they say. I knew that many of the women in the class would, instinctively or through personal experience, understand some of my stories. But I also wanted to be able to say something which some of the men in particular, who might not have had similar experiences or spent much time thinking about the issue, might be able to absorb.

So in order to organize my presentation, I asked some male students for suggestions. I invited to my office several men with whom I’d worked on various projects, students whom I knew to be fair and thoughtful, but whom no one was likely to label as feminist. And boy was I surprised at the advice they gave me.

First, one told me firmly, you need to start off by telling the class you are married so no one will think you hate men. Then, another volunteered helpfully, make sure you mention that your mother is a judge so no one will think you are a feminist because you are rebelling against your mom.. After a few more suggestions in this vein, I have to admit that I was so disheartened by the level of the discussion that I figured I should just say whatever I thought would be interesting or helpful, and just hope that someone in the class might hear it.

In a way, though, that discussion freed me up to realize that there was never going to be a “right” way to be any kind of model for students, and that the best way I could provide any kind of example was to be authentic to my own values, which centered around fairness and kindness and caring and cooperation.

Demonstrating to students the value of both intellectual and emotional skills is not just a matter of making people feel more comfortable as they progress through law school. It is critical to functioning as an effective lawyer. The contexts are endless in which lawyers need not just to know the law, but to be able to understand and communicate on a sophisticated level with others: Listening carefully to clients; assessing the real position of the other side in a negotiation; crafting a settlement that will work long term; advocating for legislation; dealing with the press; organizing for law reform; convincing your partners to take on a case. The best lawyers – and even non-lawyers – I have known have been those who are incredibly smart and knowledgeable, and who are also kind, decent people who treat those around them with courtesy, empathy and respect.

The first time I ever thought of myself explicitly as a mentor was one day near Commencement. As usual, I was overcommitted and running late, so I rushed into one of the receptions for graduating 3L's and their families. One of the first people I saw as I came into the party was a student whom I'd gotten to know well and admire during her law school career. She was an energetic and strategic leader, active in student organizations, so I had worked with her on several student policy issues. She'd also been to my office to discuss some personal issues she'd needed a little help with. I walked up to her and gave her a big hug, after which I chatted briefly with her parents and continued circulating around the room.

It was a few days later that she stopped by before moving from Cambridge. She said something that floored me. She told me that my hugging her at that reception was a turning point in her relationship with her parents. She had recently "come out" to them, and they were having some difficulty with her news that she was lesbian. Seeing someone in a position of authority in the law school community so clearly admiring their daughter broke through some unspoken barrier of fear they had about her being accepted. I was astonished that one hug could have such a powerful effect.

There were certainly times I could have used some hugs myself. Tensions surrounding student demonstrations resulted in some very trying times for the whole law school community. More than once, groups of extremely committed activist students felt so strongly on diversity issues that they "sat-in" and occupied the Dean's office. Some faculty, even those who sympathized on the merits, felt that occupying university buildings and disrupting regular law school business was wrong and counterproductive and should be met with strong disciplinary action. Students, faculty and administrators were split, sometimes bitterly.

Like others, I was caught in an awkward role. As an administrator, I was charged with enforcing some of the law school's regulations. As a person, I agreed with many of the points raised by the students, if not their specific tactics. And as a colleague, counselor and confidante to some of these students in other contexts, I knew about their personal pressures and circumstances and I cared about them as individuals. So at one point, when they decided to stay in the Dean's office overnight, I joined with those officials who

requested explicitly that they leave, and warned them of possible disciplinary consequences. Later that evening, as I sat at home after dinner with my children, I started worrying about some of the students I knew, sitting in the dark in that building. So, recognizing the inherent contradictions in role, I drove back to the law school, chatted with the university police who were monitoring the building, and sneaked in a big stash of Pepperidge Farm cookies for the protesting students.

This clash between what we assume being a lawyer requires and the messy reality of life is rarely more intense than when lawyers become parents. Balancing career and family is a really hard puzzle to sort out. For many, many women lawyers in particular, this becomes the defining issue of the next two or three decades after they graduate. Very few are prepared for the ferocity with which the dilemma hits them.

And it's not something for which law school prepared them.

We talk about families all through law school. In family law, cases deal with standards of custody and parental fitness. In constitutional law, students debate parents' rights to decide what kind of schooling or medical treatment their children get. In classrooms across the country, law students argue about abortion, about rights of surrogate mothers, about employment regulations aimed at pregnant women. They have the legal precedents and the intellectual principles down pat.

But actual exposure to real people dealing with real families is much less common. And this skews everyone's – both male and female - view of what their future lives as lawyers will be like.

At an AALS discussion group of women faculty, I once heard a professor describe a bad classroom experience. In the middle of a lecture, she was delivered the kind of phone message that every working mother dreads – one of her children had had an accident (fortunately it turned out not to be serious), but she needed to leave immediately to go to the hospital. She apologized to her class and make quick arrangements for a make-up session.

Most of the students were quite understanding. But to her surprise, the students who reacted the most negatively to this unusual occurrence were women. They were dismissive of their teacher, implicitly asking, "What's wrong with you? Are you so disorganized that you don't have a plan for this kind of thing?" It was as if by injecting a reminder of real women's family obligations into the rarified environment of legal education, this professor had somehow betrayed her women students. These students were trying so hard to maintain that they were no different from their male colleagues, and should not be treated with any less respect or assumptions of competence (as of course they shouldn't), that seeing one of their professors leave her role as teacher and have to acknowledge her parallel role as mother was threatening to their views of their future selves.

As a student, I'm not sure I was ever exposed to the families or real lives of my professors. Of course we were invited to occasional receptions at faculty members' houses and briefly met their wives (and wives it always was; I never had a woman professor in three years as a law student). We would gossip about only minimally accurate rumors of divorces or a scandalous affair. And an occasional health scare would temporarily affect us, when a teacher would need to cancel a class or mysteriously be away. But seeming to be above the concerns of real people, and untouched by real worries, was part of the Kingsfield mystique of professors. It was a phenomenon in which we all conspired.

I struggled with this when, as Dean of Students, I was pregnant with my older son and when I worked a reduced schedule to be with him after he was born. The pregnancy was obviously apparent, but it was not something anyone (including I) felt fully comfortable bringing up in routine conversation. Both students and faculty colleagues professed not to notice the pregnancy, as I tried to squeeze my 8 ½ month bulk into one of the standard sized desks at meetings. Others looked at me quizzically when I politely noted we should come up with other plans when they suggested delegating to me projects due a week after my due date.

This got much worse after my son was born. I had fully planned on taking a standard leave of a few months, then returning to my job as before. No one in law school, or even since, had prepared me for the fact that I, an ambitious and committed professional and dedicated feminist campaigner for full equality in the workplace, would fall madly in love with my baby and suffer so much when I was away from him. After returning full-time following my leave, I was completely unprepared for how miserable and confused I felt. I considered my options and what would work for both me and the school, and I presented a plan to the Dean, Jim Vorenberg, to cut down my hours in order to spend time with my son Harry. Despite getting flak from some on the faculty who were convinced "we couldn't have a part-time Dean of Students," both Jim and his successor Bob Clark were immensely supportive of my attempts to balance it all, and I will always be very grateful to them for that.

But the question of how to model this model was trickier. At first, I thought it would be important to be quite explicit with the students to show them it was possible to have workplace arrangements that recognized families.. So I published my new schedule in the law school newsletters, and had other staff in my office tell callers which times I would and would not be in.

The students seemed generally fine with this. Because we had a very collaborative office, there was someone who could usually help them if I weren't there. I prioritized and scheduled meetings so they would be convenient for the greatest numbers of people. I was available by phone if necessary, and I arranged to come into campus outside my regular schedule if I had to.

Some of the faculty, on the other hand, seemed affronted by this alternative working arrangement. Professors who spent days off campus consulting with private clients would

grumble when I wasn't in the office the particular moment they stopped by. One faculty member, whom everyone on campus knew was permanently unavailable at the start of the day because he drove in late to beat the traffic, complained if I couldn't make a meeting he had set up without checking my schedule.

I have to admit that I ended up being a reluctant role model on this point. I eventually figured out that if I didn't bring up that I was working a reduced schedule, not too many people seemed to notice. If I just checked my calendar when a meeting was being set up and said, "I have a conflict with that time; could we do it the next day?", I didn't have to subject myself to pointed comments about part-time workers. If my assistant said "She's not at her desk right now," rather than "she doesn't work on Tuesdays," no one seemed to care.

But I do realize that as long as we all keep quiet about our lives outside the classroom, it will be harder to change the profession to make it more accepting of working parents. And I worry we are not being responsible in preparing our students for the lives they will really lead as lawyers.

Students need to be told that being a litigator, with its unpredictable time demands and constant pressure, may not be the best choice for someone who wants time with his her or children.. Students need to be told that most legal employers are not going to make it easy for them to carve out time with their families, and they will actively have to craft their own solutions. Someone needs to remind them that despite great advances in women's workplace accomplishments, it is still primarily women who shoulder most of the day-to-day work of family life, and that needs to be recognized and addressed by women and by the men who care about them and their children.

And students can be helped by seeing the faculty and administrators they respect dealing with these – and other - issues in their own lives. Students need to see lots of models of what it's like to be a "real" lawyer – teachers who are not afraid to reach out if they see a student who is in distress; fathers caring for children or elderly parents; mothers working full-time and part-time; lawyers who take time off or modify their careers when their families need attention.

And students need to see their mentors as fully integrated human beings, with joys and pressures, who are able to be successful lawyers and teachers while still being caring and civil friends and colleagues.

Wait a minute, you might be saying. It's not really the role of a law school to teach students how to get along with their co-workers, or how to be better parents, or how to hold their tempers, or how to comfort a client or colleague who is grieving. That's not what legal educators do best, and it's not on the same scale as the myriad of other substantive areas and practice skills that lawyers in training need to learn.

But you know what? These are also areas that shouldn't be purposely hidden from our students. Lawyers put a great premium on the appearance of being strong. Blustering in

the courtroom and bluffing at the negotiation table are admired. Any sign of what could be construed as “weakness” or as not being in control is to be avoided at all costs. So it is only behind closed doors that a lawyer will reluctantly agree with his partner that he might be drinking a bit too much, or an associate will admit to her office mate that she misses her baby so much that she goes into the ladies’ room to cry at lunch. Traditionally, acknowledging that most people’s lives involve more than the law is seen as making it impossible to be a “real” lawyer.

But life isn’t that simple. People – even lawyers – get sick. They have aging parents who require their care. They have children who get the flu on the day a motions hearing is scheduled, or have a huge poster outlining the history of South Dakota due the same day as their mother’s big client presentation. They have friends and family – if they are lucky – who need them regardless of their work demands.

And that’s as it should be. At the end of the day, a son’s birth or a daughter’s graduation offers more long-lasting satisfaction than a judge’s decision in your favor. Really being there for a good friend in need is more rewarding than authoring a law review article. Being a brilliant attorney isn’t an automatic excuse for yelling at a co-worker. We all need both meaningful work and strong personal relationships. If we are very fortunate, we can create lives with the room for all these accomplishments and satisfactions. But it is hard work. And we have an obligation to show students, by our actions and our values, how to try.

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