

Presentation of AALS Section on Women in Legal Education Ruth Bader Ginsburg Lifetime Achievement Award

Ruth Bader Ginsburg*

The California Law Review is delighted to honor Herma Hill Kay, path-breaking scholar, teacher, and leader, and recipient of the Association of American Law Schools' Section on Women in Legal Education Ruth Bader Ginsburg Lifetime Achievement Award. Professor Kay's commitment to Berkeley, the legal academy, and the cause of women's social progress continues to this day. This festschrift in her honor includes essays from Berkeley Law scholars Andrew Bradt, Melissa Murray, and Eleanor Swift, as well as the following remarks, delivered by Justice Ruth Bader Ginsburg at the AALS Award Ceremony on January 3, 2015 in Washington, D.C.

It is a pleasure above and beyond to present the Section's Award to Herma Hill Kay, law teacher and scholar nonpareil. Herma has spearheaded countless endeavors to shape the legal academy and the legal profession to serve all the people law exists (or should exist) to serve, and to make law genuinely protective of women's capacity to chart their own life's course.

Herma's contributions to the AALS would alone merit this honor. She served on the Association's Executive Committee for four years, and became AALS President in 1989. In 1992, she chaired the Nominating Committee, and from 2001 to 2004, she was a member of the Journal of Legal Education editorial board. It would be impossible even to list Herma's affiliations and achievements in short order. But I will try to impart enough to explain why I am among the legions who hold her in abiding affection and highest regard.

When Herma was a sixth grader in a rural South Carolina public school, her teacher recognized her skill in debate and suggested what she should do with her life: she should become a lawyer. Undaunted by the profession's entrenched resistance to women at the Bar, that is just what Herma set out to

DOI: <http://dx.doi.org/10.15779/Z386V8W>

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do. Although initially told by famed Professor Karl Llewellyn that she didn't belong in Law School, Herma rejected that bad advice and became a stellar student at the University of Chicago Law School. There, she worked as research assistant to path-marking Conflict of Laws scholar, Brainerd Currie, and co-authored two leading articles with him.

On Professor Currie's recommendation, Herma gained a 1959 clerkship with California Supreme Court Justice, and later, Chief Justice, Roger J. Traynor, a jurist known for his brilliance and his humanity. Despite Traynor's strong endorsement of Herma, Chief Justice of the United States Earl Warren wasn't up to engaging a woman as his law clerk in 1960. (Nor, I should immediately add, were any of his fellow Justices.) Traynor's recommendation carried heavier weight with the Berkeley law faculty, where Herma commenced her career in the academy, and in just three years, became a full professor with tenure in 1963. Inspired and encouraged by Berkeley's distinguished Professor Barbara Armstrong, first woman to achieve tenure on any U.S. law faculty, Herma made Family Law her field of concentration, along with Conflict of Laws.

At a young age uncommon for such assignments, in 1968, Herma was appointed Co-Reporter of the Uniform Marriage and Divorce Act. That endeavor of the National Conference on Uniform State Laws launched no-fault divorce as an innovation that would sweep the country in a decade's span. In the ensuing years, in California and elsewhere, Herma has strived to make marriage and divorce safe for women. Herma and I first met at a Women and the Law Conference in 1971. For the rest of that decade, she was my best and dearest working colleague. Together with Kenneth Davidson, we produced, in 1974, the first published set of course materials on Sex Discrimination and the Law. Ever after that joint venture, Herma has remained my wise, brave, and cherished friend.

Before our first conversation, I knew Herma through her writings. She co-authored, with Roger Cramton and David Currie, the Casebook I used in teaching Conflict of Laws. Her extraordinary talent as a teacher, I knew as well, had garnered many awards, lectureship invitations, and visiting offers. I was also aware of Herma's reputation as a woman of style, who had a private pilot's license, flew a piper cub weekly, and navigated San Francisco hills in a sleek yellow Jaguar. But Herma, in person, I quickly comprehended, has a quality that cannot be conveyed in words. There is a certain chemistry involved when one meets her, something that magically makes you want to be on her side.

Herma's skill in the art of gentle persuasion accounts, in significant part, for the prominent posts she has held in legal and academic circles. In 1973 and 1974, she chaired Berkeley's Academic Senate. She was, from 1992 to 2000, Berkeley Law School's valiant Dean, meeting budgetary restrictions by honing her skills as a fundraiser, planning for the Law School's new home, promoting

depth and diversity in faculty appointments, making the place more user conscious and user friendly. Before and after her Deanship, she served the University and the University's Senate in various capacities, sitting on or chairing, by her own reckoning, "fifty zillion" committees. Outside the University, she played lead roles in major legal institutions. Herma was Secretary of the American Bar Association's Section of Legal Education and Admissions to the Bar from 1999 to 2001, Executive Committee member of the American Bar Foundation from 2000 to 2003, and both Council and Executive Committee member of the American Law Institute from 2000 to 2007. In the private philanthropic domain, she chaired the Russell Sage Foundation Board 1980 to 1984, and the Rosenberg Foundation Board from 1987 to 1989. For many years, she served on the Editorial Board of the Foundation Press, and she counseled Senator Dianne Feinstein on judicial appointments from 1992 to 1996, including my nomination in 1993.

Herma was a proponent of interdisciplinary education, team teaching Law and Anthropology with Laura Nader in the early 1960s, and later, Law and Psychiatry with Dr. Irving Phillips. As Dean of Berkeley Law School, she launched the Center for Clinical Education, and made clinical experience a mainstay of the curriculum. At the Hague Academy of Private International Law, in the summer of 1989, she delivered a series of superb lectures titled "A Defense of Currie's Governmental Interest Analysis." Showing how stunningly she could perform outside an academic milieu, she argued flawlessly before the U.S. Supreme Court in 1978 the *Hisquierdo* gender discrimination case. An unflinching partisan of equal opportunity and affirmative action, Herma managed to reset Berkeley Law School's course in the right direction after the initial shock of Proposition 209, California's strident anti-affirmative action measure.

A new chapter opened in Herma's life in 1975 when she married psychiatrist Carroll Brodsky, father of three boys, the youngest, age 12, the older boys, teenagers. She is today proud grandparent of four grandchildren. Carroll was as loving and supportive as a partner in life can be. Each week during Herma's Deanship, Carroll sent a gorgeous floral display to brighten her workspace. And although Herma stopped flying when she had career and family life to balance, she became an avid swimmer and an accomplished gardener, growing roses and orchids on the balcony of her Telegraph Hill apartment. Herma's special occupation, now for many years, is a work-in-progress on the history of women in law teaching between 1900 and 2000. The first part recounts the work and days of the fourteen pioneers appointed before 1960, the year of Herma's appointment to the Berkeley faculty. The second part describes and comments on the progress women have made in law teaching post-1960. It is history important to preserve and all of us can rejoice that Herma has devoted her bright mind and unstinting time to the undertaking. Herma's appointment to the Berkeley faculty in 1960 was a momentous event.

Her persistent effort over a span nearing fifty-five years, has been to make what was once momentous, altogether commonplace—law faculties and student generations that reflect the full capacity, diversity, and talent of all our nation's people.

For the enormous good she has done, please join me in a rousing Brava Herma!