

Transcript: A Conversation with Dean Katharine T. Bartlett, hosted by Alston & Bird Professor of Law and Political Science Erwin Chemerinsky (Oct. 27, 2006)

EC: Kate, I know I speak for everyone in this room in thanking you for doing this. I think the best place to start is with your parents. What were they like?

KB: I grew up with parents, siblings, grandparents, aunts, uncles, and cousins on a 200-acre family farm in rural Connecticut. It was in many respects an old-fashioned, extended-family experience. My grandparents lived in a house on the middle of this 200-acre farm; my parents and siblings lived on one side; my aunt, uncle and cousins on the other. As people got married, various members of the family built their homes on the property, out from the center core. My brother, sisters and cousins all kind of grew up together and shared chores. We slept most nights in our own homes, although we spent a lot of time at the house of my grandparents – Granny and Gramp.

My parents were, of course, very special people to me. They were very smart, practical people. Neither of them graduated from college, but they expected all of us to do so. Common sense was highly valued on the farm. I was often ridiculed because I didn't have quite as much common sense as was expected.

The farm had enough chickens for our own eggs and enough cows for our own milk, and we always had a steer or two, occasionally a couple of goats or a pig -- all for our own consumption. We had a lumber mill out in the back of our house, and the lumber, slabs, and sawdust was our cash crop. My father's role in the family business was to cut the logs and truck them back to the mill. He drove a lot of miles – he was gone usually by 5:30 or 6 in the morning, and sometimes not home, at least when I was younger, when we went to bed at 7 or 7:30. So he worked really long hours and hard.

When my youngest sister entered school, my mother worked outside the home, first as a secretary and then as the registrar of voters and administrator in the Town Hall – this was a very small town. She ended up being registrar of voters for 30 years in our town, and just recently retired.

My father died early, at age 59. My mother is still alive, living in the same house where we grew up. My brother now lives where my grandparents lived, on the one side of my mother, and one sister lives on the other side; my other sister lives 20 minutes away in New Haven.

EC: What was your childhood like growing up on the farm?

I remember chores. We had lots of chores. Feeding the animals, cleaning stables, milking cows, pasteurizing milk. In the summer, we did a lot of weeding, mowing the lawn, haying, picking up apples, freezing and canning vegetables. In the winter we spent a lot of time on the maple sugar operation.

During the school year, I had to get up early and feed the horses and clean the stables before the bus picked us up to take us to school, and then did the same in the late afternoon. That part of it's not as romantic as it sounds, especially in the cold winter.

But I did, even at that time, value the sense of contribution to a common good. There was a certain kind of imperative on a farm where you know that people aren't making up chores just to keep you busy. The work all had to do with the cycle of life. Each person, including each child, had an important role of play in the production of a good deal of the food that our family consumed. We also learned to sew our own clothes and do other handy things.

I don't think there was a great deal of parental attention on making sure the children had a well-programmed, balanced life with all of the different experiences kids might benefit from having. I went to Girl Scout camp for two weeks every summer and took piano lessons, but other than that, I don't remember things like play groups, after-school sports, tennis lessons, that sort of thing. Of course the differences from today in terms of structured time are partly generational, not just a result of differences related to the farm.

We had freedom on the farm, in the sense that adults didn't keep track of our every move. As long as we got our chores done, we were free to do as we wanted, which included riding horses, building forts, making big piles of leaves to jump in, paddling around the swimming hole, and collecting things.

So there was a certain kind of discipline, focused on chores, mixed with a fair amount of freedom that, looking back on it, I think was a pretty nice background to have had.

EC: After high school you went to Wheaton College in Massachusetts. When you went to college did you know you wanted to be a lawyer? At what point did you develop the interest in law?

KTB: I had no idea about becoming a lawyer when I went to college or when I was at college. In fact, I wasn't aware of anybody from my college class applying to law school. It really wasn't on the radar screen. I did have some professors who were very encouraging. They had been looking for someone whom they could send to Harvard. This was a Harvard-educated history department – I majored in History – and they kind of picked me out and said “you're going to go to Harvard and get a PhD in History.” In the absence of any other great idea I went along with it. I went to Harvard, but it was not a great experience for me. This was 1968-69, I was still basically a very small-town girl, and a lot of big-town things were going on in Cambridge at the time. If you know anything about this time, not a lot of education was going on at Harvard at that time.

I left Harvard after a year, married my high-school sweetheart, and became a high school teacher. This, in 1969, was very comfortable for me – following a path so many other women had chosen to do.

EC: You went back to the high school you attended, to teach?

KTB: Yes. First I taught in Norwich, Connecticut, but after a year, we returned to our home town, and I got a job at the same high school I had gone to, and taught school with some of the people who had been my teachers.

EC: So at what point did you become interested in law and decide to apply to law schools?

KTB: Well, for reasons I won't go into, I had a personal slump and decided I needed a big change. In 1971 I applied for teaching positions at the school systems in several cities – Denver, San Francisco, Chicago – and as a backup I also applied to law school. I'm not sure where the idea came from. My mother had been a legal secretary, and when I was packing my bags for Harvard, I asked her, "Do you think this is this the right decision for me?" My mother never offered advice, even when asked, but on that occasion, she said "You know, I always thought I could have been just as good a lawyer as the lawyer I used to work for in Winsted." I stashed that gem away, and several years later when I was thinking of a back-up plan, I said, "I'm just going to shoot off a lot of law school applications as well."

I think I was a decent high school teacher. But it turned out I didn't get a single interview for high school teaching in the cities to which I applied. The teaching profession was saturated at this time, in part because educated women had few alternatives. But while I didn't seem to have mobility as a high school teacher, I got into all the law schools to which I applied. I went to the one furthest away, UC Berkeley, and that was my very well-thought-out interest in a career in the law.

EC: What was your law school experience like once you got there?

KTB: I absolutely *loved* law school. Law school was so much better than college for me. I went to an all women's school, Wheaton College. I was on work study; I had about four different jobs at once and really didn't have many opportunities to do much else than keep my nose to the grindstone. I really wanted to do well and worked all the time at it. So I didn't really have great perspective on what I should be getting out of college besides the studying. So that's really all I did.

In law school I was three years older, and had been through a lot more of life at that point. Berkeley was so exciting and there were so many opportunities. It was just a whole new world for me. Plus I just loved the study of law. It was so much more exciting, exhilarating, it was a new way of thinking, it was different – and I really took to it. I was finally somewhere I really, really, really wanted to be.

EC: When you graduated from Boalt, what did you do next?

KTB: When I was a third year at Boalt, I took a placement clinic in an office of the Aid Society of Alameda County and I *loved* it. I absolutely loved that.

I loved the variety and the type of people I was helping in the legal services practice, so I thought that was what I wanted to do. I tried very hard to get a job in the same program for which I had worked as a student. I applied and came really close but didn't get the job. So that summer, while I was studying for the California bar exam, I found a posting for a clerkship with a recently appointed justice to the California Supreme Court – Ronald Reagan had just appointed Frank Richardson – so I applied for that job and got it. After that year, I reapplied for the legal services job and got it the second time around. So there was a happy ending to that story, and I stayed there for the full amount of time we remained in California.

EC: You met Chris [Schroeder] at Boalt.

KTB: He was a class ahead of me, Chris. We were married right after I graduated in 1975.

EC: How did you become a law teacher? At what point did you become interested in academia?

KTB: The answer to that kind of tracks my answer to the “how did you get interested in law school” question. I had very non-specific ambition. I backed into that opportunity, too.

We lived in Oakland. Chris was in a law firm practice in San Francisco, and had always wanted to go into teaching. At the time that our two oldest children were babies, and it seemed to be a particularly good time to consider a career change for Chris that might require us to move. It was a good time for me to be a trailing spouse. So Chris applied to various teaching positions and we settled on Duke, in part because Durham looked to have greater eventual career opportunities for me. When we moved here, I applied for a legal services job, but I came up empty. Paul Carrington, who was the dean at the time said, “Until you find what you are really looking for, we could use someone to teach the pre-trial litigation class.” I probably wasn't a hundred percent qualified for this position but I did take it and taught that for a few years and then gradually got into other fields – child advocacy, family law, contracts – and eventually became full time – actually, eventually more than full time.

EC: You're renowned as one of the top scholars in the country in the area of feminist jurisprudence. How did that come about, and is there an area of your writing you are most proud of?

Again, no deliberate plan. I just sort of followed my nose and took advantage of some opportunities that fell my way. The School needed someone to teach family law, which led me to become interested in gender issues.

What I'm most proud of in terms of scholarship, which is not one of the things that has the prestige of some of the other things I've published, is the Gender and Law casebook I wrote. I was a student in the very first sex-discrimination course that was taught from

published materials – Herma Hill Kay’s, at Boalt Hall. Those materials, and other casebooks that were subsequently written all tended to be organized by taking slices of other existing courses – employment discrimination, criminal law, family law, constitutional law, etc. What I did in my casebook was to reorganize the field by theoretical category – that is, according to the different sets of answers one might give to the question “how should gender make a difference in the law?” Each chapter, using materials from all different areas of law, exemplifies a certain set of assumptions, goals, and examples. For example, the formal equality chapter assumes that women and men are identical in every way that matters, and shows how that assumption plays out in many different subject matter areas – employment, family, education. The substantive equality chapter, in contrast, assumes that there are differences between women and men and that those differences handicap women the way the world is currently structured. In that chapter the law struggles to level the playing field in various ways – affirmative action, Title IX, pregnancy accommodations in the workplace, equitable distribution at divorce. Another chapter (difference theory) explores how women’s differences might be viewed not as handicaps but as positive values that could form the basis for a better society than the current model based on the autonomous, competitive individual. Another chapter analyzes how neutral concepts such as equality and free speech can be used to “rig” the law to favor men’s interests and disfavor women (nonsubordination theory); still another analyzes what it might mean to approach gender issues less in terms of equality than in terms of autonomy and freedom. The final chapter explores how each of these theories might bias our analysis by “essentializing” women as a single, inevitable or natural category of analysis.

Whew! It’s a little more complicated than all of that, but the point is that reconstructing the field in this way was, for me, an intellectual breakthrough, with more impact than some of the my other work that has been more frequently cited.

EC: You mentioned a couple of minutes ago that you and Chris have three children. I think anyone who is an attorney in this room would say that the biggest struggle is trying to balance the professional life and family life. What’s that been like for you?

KTB: I really don’t think that fully productive, active academics work fewer hours than people who go to a law firm, but there’s no doubt that there is greater flexibility. I work a lot of evenings, especially now that the kids have left home, and a lot of weekends. But I’ve always valued, especially having a husband who is also in academia and very engaged parent, the kind of flexibility needed to go to soccer games or swim meets, and to parent-teacher conferences.

We tend to see these things in terms of family vs. job. It is not clear that this is always the case. When Nan Keohane asked me to take this job, I told her that I was reluctant to do so because one of our children still lived at home and I didn’t want to take time away from her. I’ll never forget her reply: “If you take this job, I’m sure that all of your children will be very proud of you.” It was a very smart strategy – at least it worked on me. I have used that line on people a couple of times.

EC: As you look back at this point, are there things you are most proud of having accomplished as dean? Are there things you regret, or regard as mistakes?

KTB: On behalf of the school I think the thing we should be most proud of is the quality of faculty we've been able to recruit here in the last several years. You, of course being one example, and a great example, but there are a number of others as well. (EC: We would not be here but for you, and I think that's true of all the faculty that have joined since you've been dean. You've been more than instrumental in bringing people who are here.)

I'm also very pleased, although I must say this wasn't in the game plan six or seven years ago, that we have seen the growth in clinical programs that we have seen. You might have thought with my background in legal services, legal clinics would have been a natural priority for me. But it seemed like a very expensive way to educate law students. It is expensive, but I've come to see increasingly that there is no substitute for what we provide our students in the clinics. Particularly, as we as a faculty have become more focused on the need to do something very different in the third year to provide a good transition from formal legal education to practice, clinics have to be an important piece of the puzzle, where we can teach students what is extremely hard to teach in rooms like this – problem-solving, teamwork, legal judgment, and the ability to interact with clients and working colleagues – these cannot be taught in a few case studies in a classroom setting. As it is, even with a really strong clinical program, and with our ambitious leadership initiatives and so on, students are going to enter law firms and other forms of practice without being able to add value for a while. But we are accelerating that maturation process, I think, in a teaching environment where students can make mistakes with a good safety net, and where they can learn from one another in helping and supportive roles. It may be urban legend, but this kind of support used to be more common in the law firm environment, where young associates and firms would make more or less permanent commitments to one another and firms would provide excellent mentoring. Most of our students enter law firm practice now with absolutely no intention of staying at their first firms any more than two or three years. In turn, most firms do not expect them to stay, and thus do not invest in them in the same way. This means law schools need to provide a more solid base in skills related to practice, interpersonal relationships, team dynamics, and even emotional intelligence.

EC: What are the things in your deanship that you sort of regret, that haven't gone as well? What have been your biggest frustrations as dean?

KTB: I think probably the thing that I would urge the next dean to pay the most attention to are our international relationships. We have many such relationships, but I have not traveled as much to nurture these as I wished I had. We have to be really strategic about these relationships and I hope my successor will focus on developing deep, productive relationships with foreign universities – that's not to say reach out to every opportunity we have, but to think very strategically with the board and with the university as to where we could form some partnerships and have them be very deep relationships.

EC: What surprised you most about being dean?

KTB: I was still surprised at how much care and feeding is required, at least among some faculty. And not necessarily the ones I would have predicted. This is a very special place in regard to how well faculty get along with each other and the mutual respect between the faculty and students. This doesn't just happen. I inherited it. And it has required a lot of work to maintain – good work, not drudgery. And I think that mutual respect is a critical, but fragile, asset of this university.

As we add new faculty, as we grow in size physically, as we develop relationships with foreign universities, as we do all these ambitious things we want to do, we need to be really careful that what has made Duke really unique is not compromised. When we have a new dean chosen, that will be high on my list of things to try to pass on – not where the skeletons are buried so much as the positives that I think the alumni appreciate, that current students appreciate, that faculty appreciate, that we can't afford to squander. As I said, I inherited good relationships, and I don't know how you would get those back if they were lost.

EC: As you reflect on being dean, are there favorite things you've been able to do and least favorite things?

KTB: It probably doesn't come as a surprise to anyone here that I am not a great “meeter and greeter,” but once I know somebody, I love getting to know them better. So that part I have really, really liked. Thankfully, because I'm intending to stay at Duke, I hope that those relationships would continue to deepen.

Audience questions:

Q: What do you think you've left your children from this part of your life?

KTB: This is a moving target, because my children have gotten older as I've progressed through this job. My youngest child is going to turn 21 next week. My oldest one is going to be 30 next month.

I have been with my children on occasions in which they have clearly looked at me in a different way. I don't know if I needed to be dean for that to happen.

The first one of those moments was when my son was a freshman or sophomore at Princeton, and I was invited by the history department at Princeton to give a talk. Although he wouldn't have otherwise gone to a talk on the topic, he had to come because I was his mother. And I gave a lecture – I don't know what it was on – and after it he said, “Mom, I had *no idea*.” I think most children don't connect in a very meaningful way with what their parents do beyond what happens in the home, unless they work in a business or are given a hands-on role. That same son was with me last week when I received the Equal Justice Works award at the Reagan Center in Washington, D.C., and

he's now a lawyer himself, working in D.C., and that was a very special honor to share with him.

EC: Equal Justice Works is a public interest organization – every year they choose one dean in the country to honor for fostering public interest in legal education and this year Kate received the award out of all the deans in the country.

Q: What changes have you noticed in the student body?

KTB: One of the reasons I hesitate here is that I know my students in a different way than before I became dean. I taught a couple of courses in the first few years I was dean, but haven't taught a regular classroom course in a few years now. And I see much more of what students have accomplished outside of the classroom than I used to see, because it's more of my business to see that. So with that reservation, what I would go ahead and say is that I see a student body today at Duke Law School, who are highly committed to making DLS a better place, to making contributions to pro bono and public interest activities, to attending lectures and events that happen – we will adjourn from this event and all be able to go to the international food festival, it's an enormous student effort to build community. It's a very community-minded student body. Some of you know that Duke Law School has the largest bowling league in the state of North Carolina. The School has always had a sense of itself having a strong community. This has only increased. The emphasis on the importance community and what a person can get out of being a very active member of a community has really taken hold here. I don't know how that compares to other law schools, but it is the thing that feels most tangible to me.

EC: What do you attribute that to?

KTB: Carol Spruill, associate dean of pro bono and public interest, she's been a very important figure in the pro bono and public interest world. Our student affairs outfit, led by Jill Miller, has made student organizations be transformed something that you did with your spare time, and a low priority, to something that is perceived by students as an important part of their legal and professional education.

I have to say that I'm impressed when I go to other law schools, too, at the commitment of students – to making it a better community, both internally and outside the law school, in the cities in which they find themselves. And I think it's a very positive thing for the profession, and to the extent the profession allows attorneys to follow these sorts of instincts and passions that they have to make – to say it somewhat cornily, I guess – to make the world a better place. There are a lot of lawyers that law schools churn out at Duke and elsewhere that really want to make that happen. And to the extent that we, as legal professionals, in whatever place we find ourselves are able to facilitate that, I think lawyers everywhere are going to be happier people.

EC: Are there other reflections that you have that you want to share with all of us?

KTB: I hope there is no doubt by anyone who has interacted with me in this job that I have really loved – and will continue to love it for another eight or nine months – and appreciated the opportunity to have this job. And I think the personal growth I've experienced is maybe, just to speak in very personal terms, what I've appreciated the most. To link it back to my first year of law school, it's maybe that same sense that my mind was expanding exponentially – every week I knew so much more and had my horizons expanded so much more. And this job has been like that.