

SMU LAW

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**REMARKS BY FIRST LADY HILLARY RODHAM CLINTON
AT SOUTHERN METHODIST UNIVERSITY
DALLAS, TEXAS**

MRS. CLINTON: . . . This lecture which I'm very honored to give. I want to thank my friend Ms. Branson and her husband Frank for their encouragement for me to do this. And it is a great pleasure. I had a wonderful day in Texas. I started in Corpus Christi visiting a school, talking with parents and teachers and students and community leaders about what they are doing to help students, particularly from poor backgrounds, to get the kind of help that they need. I went from there to Uvalde to a great gathering at the former home and now museum of John Nance Garner. I learned that that is a part of Texas and a part of America that produces more mohair than any other.

I love to saddle around learning such things. It gives me great pleasure to see the extraordinary diversity in our country and then be able to come here to SMU, an institution that I admire and have followed with great interest for many years. This is a real opportunity for me to reflect on what a legal education and a career in the law has meant in my own life, and not only could mean, but I assume will mean, in the lives of many of the students here and will find some precedence in the lives and careers of those who are teachers and practitioners as well. It is also an opportunity for me to think aloud with you about the ways a career in the law can fulfill its most important purpose -- to be an instrument for promoting the common good, a vehicle for making our society a more just one for all of its citizens.

I started law school, as the dean has told you, in 1969. And that was a time of great political and social ferment. Many of us in law school at that time saw the law as an avenue for positive social change for helping the vulnerable, the weak, the poor, for protecting and advancing the Constitution and the Bill of Rights. Then, as now, there were many ways to reach one's goals as a lawyer. And those ways have not diminished but, in fact, expanded in the years since. One could become an advocate, a legislator, a teacher, a litigator, a business counsel, a prosecutor, a public defender -- all the many ways that people with legal training find to fulfill that training in a positive, productive contribution to society. I'm sure all these and many other choices will be reflected in the careers chosen by those who graduate from SMU. But being here on a law school campus, I'm reminded particularly of my experiences as a law professor at the University of Arkansas.

I came to that university in the summer of 1974. I had been working on behalf of the House Judiciary Committee. And its impeachment inquiry into President Nixon. That ended with the president's resignation on August 8, and I needed to find a job. I had visited Arkansas because I had met a young man at Yale who was from Arkansas and, literally, that's all he ever talked about was Arkansas. And, when he graduated in 1973, he knew very well what he wanted to do, and that was to go home to teach at the University and see whether or not a legal opportunity existed for him to use his legal career in public service. When I visited him in Arkansas, I met the dean of the law school. And in a casual conversation at dinner one night, the dean said, "You know, if you ever want to teach, give me a call." Life was a lot simpler in those days.

So, after President Nixon's resignation, I, with some trepidation, picked up the phone and called the then dean. I said, "Remember when you said 'if I ever wanted to teach to give you a call?' Well, I have an interest in teaching and an interest in living in Arkansas to see what it is like. Is that offer still good?" He said, "Oh, absolutely." So I then said, "Well, in order to get prepared, what would you like me to teach?" He answered, "I don't know. I'll tell you when you get here."

So, about two weeks later, I arrived at a place where I had never lived to take a job I knew nothing about. And there in August of 1974, I began my career as a law teacher. The dean, upon my greeting him when I arrived, said, "Well, I've given this some thought. I want you to teach first-year criminal law. I want you to run the legal aid clinic. I want you to run the prison projects in the state federal prisons. And, by the way, I want you to teach trial advocacy." All of which I had extraordinary experiences in, but had never done in the past. So, I swallowed hard and immediately began trying to figure out how to start.

The very first evening after having been given that assignment, I was invited to the town bar association's welcoming cocktail party for the new law school faculty. I don't know if there is a comparable kind of event for new faculty members here, but it was very kind of the president of the bar to take me and to show me around. I quickly concluded that it was also quite amusing because he would take me up to everyone and he would say, "I would like you to meet the new lady law professor." And I would smile and I'd say "How do you do?" and everyone was very cordial. Until he introduced me to one of the formidable judges in the state at that time, a long-serving chancellor because Arkansas had still chancellery divisions. And he said, "Judge, this is the new lady law professor. She's going to teach them the law and run the legal aid clinic." And this very tall, distinguished man with a handlebar grey mustache looked down at

me and said, "Well, I don't have any use for lady law professors or legal aid clinics, but we're glad to have you here anyway."

At this moment, I began to wonder about my career choice, but I didn't have much time to reflect upon it because classes started the very next day. So, I desperately tried to stay at least one class ahead of my students. And I began to work in and help create a legal aid program at the University. I knew that there were many people who then, as well as now, did not cotton through the idea of free legal services, and I knew because I had worked in legal aid programs when I was at Yale that it would be something of an uphill struggle. But I never doubted for a minute that it was an important part of my students' experience in law school to have the opportunity to represent real clients with real problems. And I never doubted that it was a critical amendment of our profession.

Some of the experiences that I had, both when I was a student doing legal aid work, and then later as the director of the University of Arkansas legal aid clinic, were some of the best experiences I've had in the law. Certainly my interest in working on behalf of children and families was piqued when as a law student, I worked with a local lawyer and a legal aid lawyer in bringing some challenges to the state of Connecticut's policies as to who could or could not adopt children. And the case I remember very well was of a young girl about four years old who'd been with a foster mother for her entire life. And the state decided that they found a better home for her, and they were going to take her from that environment and place her with another family who had been waiting to adopt a child. And the foster mother desperately wanted to adopt this child herself. So we represented this poor foster mother who did not have sufficient funds to hire a lawyer, but who had a very good argument as to why she had created a mother-child relationship with this little girl.

And the case was hard fought. In those days, the decision was that it would be better for the child to be moved to an environment that had more material possibilities than to stay with the mother that she had known. A decision that I disagreed with then and a decision I disagree with now. But working on that case opened up my eyes to many of the psychological and emotional and other issues having to do with adoption and foster care.

When I began working at the legal aid clinic at the University of Arkansas, I encountered other kinds of challenges. I will never forget a young woman who showed up with her father wanting a divorce. And her father was an elderly gentleman. He'd been a coal miner in western Arkansas. And this young woman had eight children, and she recited to me all the reasons why she wanted a divorce. She told me where she got married and soon

began looking for the marriage certificate so that they could make the necessary pleadings. We could not find the place that she had been legally married anywhere. And I was especially concerned about telling this poor woman with eight children that she had never been legally married. Some student came to me and said, "You know, we looked in all the neighboring counties, there's nothing on record. We don't think shes' ever been legally married."

So we had her come back in with her father. She sat in my office, and I was just trying to summon up all my empathy, everything I could to let her know what had happened. And I started off by saying, "Well, I've got some difficult news to deliver. We don't think you've ever been legally married." She just gasped and her father said, "Good. I never liked him anyway."

We had experiences like that that you can only have in the kind of practice that comes in the door of a legal aid clinic. In the years since, I have encountered many people like that formidable judge who do not believe in legal services for people who cannot afford them. But despite that opposition, the Legal Services Corporation was created by a bipartisan Congress and signed into law by President Nixon with the idea that local legal aid programs would be funded to assist millions of Americans with their legal problems -- problems that would otherwise go unaddressed.

After 22 years, legal aid societies have become a way of American life, and the Legal Services Corporation is one of the institutions our society has to nurture and practice one of its most cherished ideals -- that of justice for all Americans. Last year, legal services programs here and throughout the country helped five million people who otherwise could not afford assistance with evictions and foreclosures and divorces. Often, advice, a referral, a listening ear, a letter, or a phone call is enough to solve a problem. Very few of these cases, as with most practices, need to be resolved in the courts.

From my own experiences, which not only included legal aid work, but as a founder of the Ozark Legal Services Corporation in Arkansas, as a former member and then chair of Legal Services Corporation, I know how simple assistance can often head off more complicated problems. But today, the Legal Services Corporation's survival hangs in the balance. Over the past year, opponents in Congress have tried to cut funding and even to kill the Legal Services Corporation. As of the first of this year, funding for the corporation in a temporary spending measure was slashed by one third, and the final fate will be determined later this year.

At the same time that the Legal Services Corporation has been under a frontal assault, private law firms, bar associations, and individual lawyers have not only sprung (as they have consistently for more than 20 years) to the defense of legal services, but increased their own donations and pro bono hours to make up for some of the lost funds. That is a critical part of the legal services equation, because even if one has a corporation with paid staff to perform most of the functions needed for representing poor clients, that is not enough. And if it were not for private attorneys, both who contribute dollars to existing legal services operations but, more importantly, contribute their time, there is no way we could reach the many people who need the services.

What it means for a poor American who is denied legal services can be seen in the kinds of cases that I used to take care of and that many of you in this room work on as well. We know that if we were in trouble, because for whatever combination of reasons we were to be evicted, or we were subjected to domestic abuse, or we didn't have what we thought we were entitled to with respect to fair pay or fair treatment, we would want someone's help. The poor are no different. Under the current cuts, some 1.3 million people would have been denied help. It would be very difficult to make the distinctions between those who will receive it and those who will not.

Congress is also trying to tie the hands of legal aid lawyers by putting restrictions on what kinds of cases such lawyers can take. More troubling to me is that Congress is also trying to restrict the non-public private donations that come from law firms and other sources, so that they, too, cannot be used freely by legal services offices.

Now, some of you may be asking yourselves how a debate over the existence of the Legal Services Corporation affects you, our nation's future lawyers. Well, for those who wish to serve in some capacity on behalf of legal services, it is obviously a direct impact. But for most of you, and in fact, for most of us who are lawyers, it has more to do with our society's fundamental commitment to justice, to law, and to progress. Roscoe Pound, the famous dean of the Harvard Law School, once said, "Law must be stable and yet it cannot stand still." He meant that the law must evolve with the times, offering the security of permanence, the hope for change, and new opportunities for us to use the law to benefit the larger society.

I believe that both our society and our profession became truer to our fundamental values with the founding of the Legal Services Corporation 22 years ago. The thousands of legal aid lawyers and the many more thousands of private lawyers who donate time to legal aid work are the heart and soul of our profession. They are helping our country uphold the one true contract

individuals have with America -- the Constitution, and specifically its promise of justice for all.

Each time a legal aid lawyer helps a mother petition for child support, or forces a nursing home to live up to its obligations of taking care of its elderly residents, this country, this society, our profession moves closer to its ideals. I'm not asking all of you to become legal aid lawyers. I'm just asking that all of us consider what it means to be a lawyer today and the absence that those who do practice legal aid would mean to how we fulfill our roles. A career in the law should mean a life of service and a commitment to justice, whether it is in a legal aid office or a classroom or in any other setting where lawyers practice.

One of the experiences about growing older is discovering that the struggle for progress in a society is often as important, if not more so, than the end result. At some point, however idealistic we may be or have been, we accept that the principles of fairness, justice, and equality often become flawed in their application. We accept that we will and no one will solve all the problems we see in our lifetime. But we keep striving, we keep struggling for these ideals that we believe have to be kept alive. We remain committed to the process of living up to our own better natures and the values we espouse and the promise of a better future.

As so many of you already know, and as many of you are learning, the cause of justice is worth a lifelong struggle. I commend you for being willing in times that are not always favorable to lawyers for being willing to take your place in a profession that is so essential, not only to the operations of a complex society, but to the ideals that that society should attempt to achieve. Thank you very much.

[The moderator then asked Mrs. Clinton questions that had been written by members of the audience. Due to the fact that the moderator's questions were barely audible, the wording of the questions has been paraphrased.]

MODERATOR: You have time for a few questions. This is a little bit different. We have a third-year law student who has spent many thousand dollars on a degree. How can a person perform pro bono work while faced with paying off law school loans?

MRS. CLINTON: Good question, because I know a lot of you have incurred debt. I know that both my husband and I borrowed money and took loans to get through law school. And the debt load wasn't as great as some of you face, and certainly not \$80,000, but it was something we had to deal with.

I believe that there is still an opportunity, no matter what job you take when you graduate, to do some pro bono work, even if it's just one case, even if its just volunteering in some way. But there is that opportunity, and I would urge you to take it. It doesn't have to be direct service for a client. It could also be work on behalf of a not-for-profit organization that needs some legal assistance. That was one of the things that I enjoyed doing as much as anything in my work in the past -- working with groups that were trying to get organized and get focused and do what they can. So, I would just urge you, even with the debt load that you have and the hours that you will have to work in order to pay that back, save at least maybe a couple hours a month to do something pro bono.

MODERATOR: Is the Legal Services Corporation the best way to provide legal services for the poor? Are there any existing services that could substitute for the functions that the corporation performs?

MRS. CLINTON: Well, of course, the Legal Services Corporation distributes funds to local legal aid offices that are governed by local boards and make their own decisions. I've served on the board of one, I've worked with one, I have followed how they operate. So I do think that, as I said, the Legal Services Corporation cannot be the only way of providing legal services to the poor. But, I think it's a necessary base that provides a structure that does try to reach into every community. And although it is spread thin, I think it does provide that presence. So, although I encourage local bars and state bars to continue to do and even increase what they're doing directly with legal services and in support of the Legal Services Corporation, I don't think that it would be an efficient way to substitute for what the Legal Services Corporation does.

MODERATOR: Do you feel that there are still good opportunities available in public service?

MRS. CLINTON: Well, I think there are many opportunities. I believe you have to do what you care about and what you are motivated to do, and not just look for something that makes sense on paper if it doesn't fill you with the desire to make a difference. I think public life -- elected office -- is a very important role for both men and women, but particularly for young women to look to. But, I also think government service -- public service at all levels of government -- is important for people.

I'm saddened when I see that the climate seems to suggest that it is not worth government or public life because it is tough, it is not pleasant. I would not stand up here and tell you that it was, because it has not gotten any better, but instead it's gotten worse in the years that I've observed and been part of it. And so you have to know that it's a challenge.

But, on the other hand, if that's what you're interested in, I would urge you to do it and just take the risks that go along with it because there are risks doing anything in life. There is no free ride no matter what career choice you make. And there's no guarantee that what you do when you're 25 or 35 will be what you're doing when you're 45 or 55.

I did not have a career plan to end up living in the White House married to the President of the United States. That was not something that ever crossed my mind or looked like it might actually happen. So, you can't predict what you're going to do in your own life. So you have to do every day what gives you satisfaction, and if that's public service and its many forms, then please, do it, pursue it, and you all have to stand up and advocate on behalf of what you believe.

MODERATOR: What is your viewpoint on the state of ethics in America?

MRS. CLINTON: Oh, I think that generally in America, whether its American politics or the American legal profession, I think that if you look and compare the United States to any other country I'm aware of, or any other point in past history, by and large people are ethical, they try live up to their ethical obligations. They can be second-guessed -- I know that from firsthand experience. But, most people I know that I have the chance to observe and work with have tried very hard to fulfill their ethical obligations as lawyers.

Now, I do believe that you have to constantly be vigilant and where there are problems, you have to resolve them. But I think sometimes we can get to the point where we strain at a gnat and swallow a camel. There are a lot of choices in the law, just as in life, that are difficult choices. And you do the best you can, and you try to be as ethical and careful as possible. But, if you always keep that in mind, then you are more likely than not to live with yourself and be able to maintain your own standards. And at the end of the day, that is what is really important.

So, yes, we have to be conscious of ethical lapses of ourselves and others in the profession. We have to do what we can to make those not be spreaded but instead be refined and possibly be cured. But we also have to recognize that I think we do on balance a better job than sometimes the public gives the legal profession credit for.

MODERATOR: What is one of the most important qualities that a lawyer should possess?

MRS. CLINTON: I don't have any idea. I mean, for a woman, probably a good haircut.

I think that is such a difficult question. Obviously, you know, integrity, character, the things that make for a good person make for a good lawyer. I've often thought that there are many people in professions, not just law, but in other professions as well, who at the end of the day what you look for is good judgement and good judgement is based on experience and thoughtfulness and a sense of a center for the person and the values more important than either the degrees on the wall or the entry in the Martindale (inaudible). So it's very difficult to go beyond what is, you know, basic to what makes a good person.

MODERATOR: We have time for one more question. This is from -- we'll give the faculty a little time here -- this is from Professor (inaudible). What role should lawyers play in cases involving children, and how can lawyers provide that representation?

MRS. CLINTON: Well, I think that this is one of the continuing challenges that the legal profession has because what we have to do is do a better job in strengthening families and in educating parents to take care of their own children and to limit the amount of intervention into any family on behalf of a child. That is the general principle that should be followed in nearly every case.

The unfortunate fact is that we had quite an increase -- and particularly a fanatic increase in the last few years -- in child abuse and neglect. The most numbers of increased cases are in children under four. So that we know that there are, for whatever combination of reasons, children were not being adequately cared for by their own family members. And because we have this conflict, both in the law and inside each of us about wanting to protect the sanctity of the family and enable the family to make decisions for children, on the other hand, not wanting to keep children in dangerous situations and wanting to, insofar as humanly possible, give children a second chance at a loving family, there is a constant conflict in the law and among decision makers when it comes to intervening into families, possibly terminating parental rights, and stepping in as parents patriae and making decisions on behalf of the child.

Having both been involved in such cases and having watched this now for about 25 years, I think that we have to be much more careful about when we intervene. But when we intervene, we have to be much more willing to move to terminate parental rights and release children for adoption as soon as possible. And there are many children -- about 100,000 right now -- who are in the limbo of foster care, which is about 450,000 children. And those 100,000 are there despite the fact that they could and should be released for adoption or placement with another family.

So I would like to see more effort on the part of lawyers to try to structure some remedies in every state that would use volunteer lawyers to act as advocates for children in the foster care system, volunteer judges keeping the courts open. I think this is a real emergency. So that perhaps within a year or two, as I wrote and suggested in my book, we could make permanent decisions on behalf of the children who are caught in the foster care system.

There also has to be clearer direction to parents from whom a child is taken as to what they must do to prove that they are capable of caring for that child. If they are drug addicts, they have to be in some kind of program or forfeit their rights. At a certain point, you have to move from emphasis on parental rights to looking at what is in the best interest of a child. It is not an easy transition to make, but we leave too many children in dangerous, neglectful situations for too long. So, I would hope that some of the good minds at SMU and other places around the country who care about children, would begin to think through in a practical way, what we can do to solve this constant conflict between the rights of the family and the parents and the needs of the child. And I think lawyers and law students have a great opportunity to be of service in this.

I would just like to conclude by saying that one of the things that I always noticed (both when I was in law school and when I taught in the law schools) is that domestic relations law -- laws having to do with children -- were not considered to be of the same status as, you know, studying tax code or corporate law or anti-trust and things like that. I always thought that was a real loss for our society. . . that caring about what happens in the way the law affects our lives as family members is critical to making it possible to strengthen families as opposed to just continuing to allow social conditions to overwhelm them. I think we're at a point now where many people feel that way, and that lawyers have a chance to lead the way.

We need to look at divorce laws. I believe divorce laws where children are involved should be harder, or should be breaking mechanisms. I don't know the answers, but I would love to have some people who think seriously about this come up with them. I think this whole foster care/adoption situation is very troubling. The abuse and neglect of children has got to be addressed seriously by lawyers, and not left to overburdened social workers who are doing the best they can often under very tough circumstances.

So, there's a real opportunity to look at issues that are difficult and emotional. It's a lot easier reading the code -- believe me. I mean, it doesn't yell at you on the phone, it doesn't cry in your office. But, the issues as to what we're going to do with the family and how we're going to preserve it

and strengthen families is, I would argue, one of the most critical issues to the functioning of society and therefore should command the attention and respect of more lawyers so that they can be part of the solutions that we need to find together. Thank you very much.

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