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Spring 2019

## Represent

Teri D. Baxter, *University of Tennessee College of Law*



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## REPRESENT

TERI DOBBINS BAXTER\*

Looking back on my career as a woman in the legal profession, what has remained constant is the struggle between being an individual and being a representative. As an individual, I want to make decisions based on my own goals and sense of well-being and comfort. But I am always conscious of the fact that—like it or not—I am often viewed as a representative of my gender or race or both. This is because there is still a lower percentage of women and people of color in the profession than in the general population. But I am also aware that our numbers have increased, and with each additional woman and person of color in law firms, on the bench, in law school classrooms, and in deans' suites, it becomes easier to be and represent only myself. Moreover, I recognize that in my own life, my own identity and decisions have been heavily influenced by other women who had already walked the path I wanted to walk (or thought I wanted to walk) and accomplished what I hoped to accomplish. In other words, having role models who served as representatives helped me reach my goals.

After graduating from law school, I worked at a large Texas firm. There were several female partners, although they were far outnumbered by men. What I found most notable, however, was how few of the women partners had children before making partner, particularly in the litigation section where I worked. The long hours and unpredictable nature of the practice made it difficult for anyone to sustain what I thought of as a healthy family dynamic. In addition, the pressure to bill hours meant taking advantage of busy times to bill as many hours as possible to offset slower times between big cases. Taking weeks or months off for maternity leave before I had a track record of performance and an established client base seemed risky. Essentially, it seemed prudent to wait until making partner. The more senior women reinforced that belief. While they might have expressed regret for waiting so long to start their families, they did not seem any more supportive than the male partners of female associates having children in the early years of practice. No one ever said that we *could not* be successful if we did so, but the message I received was loud and clear: wait.

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Although I had no plans to have children soon, it was troubling to think that I would not have that option for many years. I also noted that the women who had children after making partner did not seem to spend much time with their children. From my perspective (as an outsider who, admittedly was not particularly close to most of those women and certainly did not know the dynamics of their family life), it seemed as though the children were being raised by nannies and the occasional stay-at-home partner. While those were valid choices, they were not the choice I want to make for myself. What I craved was someone I could look to and say “I want what she has,” so I could find out how she got there and chart a similar path for myself.

No one at the firm represented the life that I wanted, but I did find that role model on the first law school faculty that I joined. Camille Nelson (now Dean at American University, Washington College of Law) joined the Saint Louis University faculty a couple of years before I did. I first met her at my interview at the Washington, D.C. recruitment conference, and I remember how outgoing and friendly she was. She had more energy than everyone else in the room combined—even though she was well into her last trimester of pregnancy with her third child. She gave birth before I made it to my on-campus interview a few weeks later, but she called me (with her newborn in her arms) to talk to me about the law school, life in St. Louis, and what it was like to be a woman of color on the SLU faculty. Most importantly, she assured me that she would be a mentor if I chose SLU. She was friendly, candid, funny, and she was one of the main reasons I accepted SLU’s offer. It was not only that she was a woman of color; it was that she had found a way to balance family and career while being her authentic self. She represented what I wanted for myself and showed me that it was possible.

Over the years, as we became friends, I saw how she managed to “have it all,” and frankly, there was no way I was going to be able to follow the same path. We are very different people with different personalities and ambitions. I am an introvert who prefers a quiet evening in bed with a good book and she was constantly on the go. Sleeping in on Saturday mornings made me unbelievably happy, and I am not convinced that she ever sleeps. I will always love her for dragging me out of the house to develop and pursue new interests—pottery, wine tastings, and cooking cuisines from around the world. She was (and is) a force of nature, but I knew that I would never be able to be involved in so many things at work and at home and maintain my sanity.

However, she introduced me to her book club, which consisted of African American women from a variety of backgrounds, including another law professor, university administrators, and practicing attorneys. These women were a gift to me. They offered friendship, support, advice, and understanding. They knew the particular joys and challenges I faced personally and professionally, and they represented success achieved via a multitude of paths. In a very real sense, they represented choices and the value of diversity. Having another woman of color on the faculty was valuable, but one or two people does not equal diversity.

Having the ability to talk to and learn from and debate with a dozen women who have each taken a different path and who have different goals and priorities allowed me to make better-informed decisions. Their experiences showed me the likely outcomes of taking certain risks and the resources available to help me minimize those risks. I heard stories from a dozen different women about the very different ways that they dealt with harassment or discrimination on the job. I thought about which strategy felt most comfortable for me, so that I was better prepared when I faced uncomfortable or offensive comments or situations. I heard about their children's struggles and how they helped them heal and succeed, and it has helped me become a better mother (I hope). They (especially Camille) also connected me with professional mentors in our community who happened to be White or male or both.

By the time I joined the UT Law faculty I was married with two young children. I then represented working moms and professional women of color who had attained a measure of success. How I balanced competing personal and professional obligations and opportunities could be a roadmap for others. That thought made me feel both proud and anxious. Proud because I might give other young women—and particularly women of color—confidence that such a balance can be struck. Seeing me in this academic setting might open their eyes to possibilities beyond private practice and public interest (both of which can be immensely satisfying careers, but which are not for everyone).

But I was anxious because I know how difficult it can be to work outside of the home full-time and still be present in my kids' lives in the way that I want to be. I was anxious because there were many struggles and failures along the way. I believed that I could be most helpful by sharing those as well, even though I would much prefer to leave those in the past, locked away where I do not have to relive the hurt and frustration.

For example, when I was pregnant with my daughter (my first child), my employer had only recently implemented a maternity leave policy and there was a great deal of confusion regarding how much of my salary or medical benefits (if any!) I would receive while on leave. It took months of discussion and negotiation and stress and anger before the issue was resolved, and I was less than satisfied with the final outcome. I was better informed by my second pregnancy. The process was smooth and far less stressful and I was able to share my experience and give advice to other women to help them avoid the same pitfalls. There were many other pitfalls that I avoided because I learned from others who shared their failures and setbacks with me. By telling the whole truth I can represent hope.

Hope is important. Without hope that your hard work and sacrifice will pay off, it is easy to give up. Women law students may see the statistics showing that while women make up nearly 50% of summer associates and more than 45% of associates in the legal profession, they make up only 22% of law firm partners.<sup>1</sup> A study conducted by the Harvard Law School Center on the Legal Profession found that among Harvard Law graduates:

[M]en are significantly more likely to be equity partners and to be in positions of leadership than their female classmates—even though women work more hours, on average. Women experience significantly more workplace consequences, including loss of seniority, as a result of having a child, and twice as many female partners as male partners do not have children. The percentage of male law partners who are married far outpaces the percentage of female partners.<sup>2</sup>

There are also gender disparities on law faculties. But the numbers are rising; in 2018, 39% of lawyers promoted to partner were women.<sup>3</sup> Today, the dean and both associate deans at the University of Tennessee College of Law are women, and one is a woman of color (me). That gives us reason to be hopeful and to pass that hope along to future generations of women.

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1. *New Partner Report*, DIVERSITY & FLEXIBILITY ALLIANCE (2018), <http://dfalliance.com/research/new-partner-report/>.

2. *Gender Study: A New HLS Report Charts Progress and Obstacles for Women in the Law*, HARV. L. TODAY (Oct. 2, 2015), <https://today.law.harvard.edu/gender-study-a-new-hls-report-charts-progress-and-obstacles-for-women-in-the-law/>.

3. *New Partner Report*, *supra* note 1.

The struggle for full acceptance and support continues for many women in many professions, but the progress is real and represents the future that is possible. I think one of the biggest challenges for the women who have defied the odds is to use our positions of power and influence to open the doors wider and to push for structural changes that will allow women to believe that they can have a family and a career if that is what they choose. Greater support for pregnancy and childbirth, easier access to quality childcare, and greater recognition and support for the emotional labor and greater service burdens often shouldered by women in the workplace are a good start. These changes represent a path to a future in which women are valued, respected, and able to fully participate in and contribute to our profession and our society.



