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### Memorial Tributes for Professor Elizabeth B. Clark In Memoriam

Pnina Lahav

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whistler, and she knew a lot of songs. How many women whistle when they go about their day-to-day tasks?

I leave to others to talk about Betsy's scholarship. Let me only say that she had a remarkable ability to interest others in her projects. When she gave papers or workshops, she spoke softly but with such enthusiasm and engagement that she drew others into her topics and interests effortlessly. Her listeners would lean forward and intently follow her sometimes complex and nuanced train of thought. I have often wondered at this gift—I think it has something to do with her approach to her audience, her ability to be respectful and inclusive rather than distanced and formal. Despite doing painstaking historical work—work which was often tedious and lonely, enduring long spells in archives and generating mountains of notes—she found a way to make that work germane and accessible to a wide range of audiences. Without grandstanding or overstating her claims, she would weave a web of words and images, of evidence and categories, peppered with insights and interesting asides, and then step back and place it all in a historical perspective, or indeed several perspectives, thereby addressing major theoretical questions from a situated, concrete basis. It is one small part of the tragedy of her death that she was unable to complete her book and get the recognition that she deserved.

I will never forget the day Betsy called me and said, "I'm not doing very well—I have ovarian cancer." From that day on, she was clear that she did not want to know the worst case scenario, did not want to bask in morbidity and self-pity. Instead, she wanted to find the sources of hope, she wanted to stay connected with the world of the living and not descend into despair. Her fight against cancer was a heroic statement about the love of life and the power of the human spirit.

How can we commemorate Betsy's life and keep her spirit with us on a day-to-day basis? I have thought about this question often in recent weeks, as I do not want to lose touch with the many beautiful gifts Betsy gave us. I believe that we celebrate Betsy by keeping close in our lives the things that she valued and loved—the books, art, music, the walks in the woods, cooking, meditation and, most of all, friends.

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PNINA LAHAV\*

Betsy joined our faculty at Boston University School of Law in 1991. At that time she had already accepted an offer from the University of Pennsylvania Law School, and we were acutely aware of the fact that we

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were very fortunate to have her. It was her love for David that made her want to stay in the Boston area, and we were the beneficiary of her determination to establish a home here.

We soon learned that there was something very special about Betsy. Of course, she was extremely able and erudite, very charming and lovely, and delightfully funny, and one does not encounter very many law professors who meet such a description. But I am thinking of something else. For many of us, Betsy represented the embodiment of the values of citizenship.

Now, in the academic milieu we frequently invoke the concept of "institutional citizens"—those who not only "do their own work" but who sit on committees, teach basic courses, and attend endless and often fruitless meetings. Betsy was a good institutional citizen. She served on many committees—the appointments committee, the academic standards committee, the library committee, the tenure committee. She taught the basic first-year course in property law, and a survey course in American legal history; she even agreed to take the ungrateful and time-consuming chore of faculty advisor to the Probate Journal. All of us highly appreciated her presence and contribution.

But that hardly captures what was special about Betsy. What I have in mind is Betsy as a model of good citizenship. Betsy's genuine concern for the welfare of the law school as an educational institution, her intense interest in every aspect of the life of the university, her active effort to be informed, her open-mindedness and ability to reach out to representatives of radically different points of view—to listen and to weigh seriously conflicting positions. Her outrage and willingness to fight when she confronted injustice. She not only had a clear concept of the public good that a good law school should serve, but she also had the self-consciousness to separate it from her own personal good. And she had the courage and integrity to pursue the public good even when she understood that the pursuit of her own interests would benefit from a different course of action.

Let me give you an example. Betsy taught the first-year, basic property course. One typically has a hundred students in such a course. At the same time she was also struggling to finish her book, she was maintaining a rather heavy schedule of appearances in workshops and conferences all over the country, and she was discharging her responsibilities as an institutional citizen. In addition to all of that she was also a young wife, anxious to become a mother. Finishing the book and building national recognition through the acceptance of various speaking engagements were very important, both in order to facilitate the tenure process and in order to fulfill her personal ambition. In the face of all of these demands, she could have done what the large majority of us do: choose a good casebook and stick to it, do the best you can in the classroom, give one final examination and do only one round of grading (which by itself kills a month of your life).

But Betsy had a well thought out philosophy of teaching, of what good education meant, and she was not willing to compromise it or to subordinate

it to her personal interests. This is what I mean by good citizenship.

At Boston University, candidates for tenure are asked to describe their courses and methods of instruction. Here is Betsy explaining her approach to the teaching of property law:

In teaching property I have also supplemented the casebook with materials designed to broaden the student's angle of vision. Property itself is a changing field, and I have included materials on new problems . . . (issues raised by advances in biotechnology or by erosion and pollution across boundaries, for example) . . . this provides students with a critical orientation in matters of policy in preparation for the changes they will confront over their long careers.

And here is Betsy describing her legal history course:

I have spent a great deal of time devising an innovative syllabus that reflects my vision of the subject and its function in a law school curriculum. In teaching legal history, my pedagogical and substantive aims are closely related. I believe that the standard first year of law school in particular, in its focus on doctrine and private law, gives students an inadequate grounding in the broader social and moral contexts of jurisprudence; and that ideally each student should receive at least a rudimentary background in history, economics, and legal philosophy. The legal history course which I have taught since 1990 . . . is designed to show students that law is not just the product of legislative or judicial action, but of a more complex interaction between different normative spheres in which values are formed . . . .

Betsy then addressed her teaching and grading methodology:

I have found that the standard law school system of a single in-class exam at the end of a course often does not give students enough time to reflect thoughtfully on complex material, or to learn the process of constructing a competent legal analysis of a problem. Although it involves much more grading, I break the exam down into two or three parts, with at least one being a take-home exam or paper, a system which produces much sounder results and provides a better lesson in crafting legal arguments . . . .

In teaching seminars, I have tried to give students a good grounding in research skills in addition to substantive discussions of the materials. I have asked students . . . to work in pairs giving critical readings of each others' early drafts, which I believe helps them to develop their own analytical skills.

Betsy did not seek any shortcuts or easy ways out. She performed her role as a Professor in accordance with the high standards that she believed were right, regardless of the toll that it took on her personal career.

The students understood that. Let me read to you some of their comments as they appear in Betsy's teaching evaluations:

Professor Clark was the best professor I had this semester. She was extremely accessible. I enjoyed Property class more than any other and I am sorry to see it end. Class discussions (and during her office hours) were always informative. She maintained our interest in the subject matter, even during “nuisance.” She is also very funny. EXCELLENT, EXCELLENT PROFESSOR.

Professor Clark is a property Goddess! She is extremely fair, but pushes us toward thought-provoking issues with no easy answers. Stimulating classroom environment; Not flashy “Hollywood” type, but full of substance.

Professor Clark, as well as being a very fine professor, (who assigns a lot of work), is genuinely one of the coolest people I’ve ever known.

Unfortunately I am not well liked by another unnamed professor, as I was called “the drone of the Betsy Clark fallacy” by Professor “X” in the middle of the class. That’s Okay. When I grow up, I want to be as “with it” as Prof. Clark.

It was good that Clark sent out letters midway into the semester to students with poor attendance. Some people (like me) need that type of kick in the ass to motivate them.

Now I wish to pause here and say I have seen a good number of praiseful evaluations in my time, but I have never seen such humorous ones, nor have I seen so many comments addressing the Professor by her first name, and I think that what we see here is that Betsy’s legendary sense of humor was contagious – she infected her students with it – and they reciprocated with loving humor. We also see that the students developed a very warm and direct affection for her, while maintaining their high esteem of her professional abilities. And there’s more – I know, because she had told me, that Betsy found the reference to the “Drone of the Betsy Clark fallacy” very amusing. What she did not tell me—was how that student ended the short comment: “when I grow up I want to be as ‘with it’ as Professor Clark.”

Betsy was brilliant and full of good humor, but she was also very, very modest and would not brag about the fact that she has become such an important role model for her students.

I now return to the students’ evaluations. Here’s what they said about her course in American Legal History:

Great job. You are one dedicated teacher. Thanks again for letting us put in rough drafts.

I learnt a great deal not only about the subject but also about writing.

Betsy could have saved time and energy by simply teaching the same courses or seminars over and over again. But she thought that diversification would be good for the curriculum and for the students, and furthermore, as she had told me several times, she needed the intellectual challenge that

comes with teaching new courses. Here is what the students had to say about her additional courses and seminars:

Women and the State in the 19th Century:

Professor Clark is great . . . . A real breath of fresh air in such a rigid anal place.

She is extremely knowledgeable about the subject matter. Ideas tumble out of her mouth – she is a walking bibliography.

[C]ritique of term papers was very helpful in formulating arguments and revisions.

Social History of Rights:

Professor Clark is an inventive and interesting instructor . . .

[T]his seminar had great readings and fostered an atmosphere of inquiry which I have rarely experienced in law school. I feel lucky to have taken this class to have studied with Professor Clark.

Finally, the last course she taught, Trials in American Culture:

Absolutely one of my *favorite* classes. . . . Prof. Clark was a *wonderful* story teller, lecturer, instructor, debater and listener.

This course has given us an understanding of the social function of law with a depth and perspective unavailable in any other course. The perspective is so encompassing and broad that it has not yet settled, yet we sense that we are onto something very valuable and exciting.

Lest you think that only students thought that Betsy was an outstanding teacher, let me quote my friend and colleague Professor Fran Miller, one of the most seasoned and best teachers at Boston University: “Clark is a most engaging classroom professional, and she achieved with me what I consider one of the foremost goals for a professor – I want to learn more about the things that she so obviously knows.”

Betsy was also concerned about education on the college level. She wrote:

I am anxious to develop a regular undergraduate course in legal and constitutional history in the Department of History at Boston University. More students arrive at law school knowing less about the law than in any other graduate field; for them and for other students I believe that it is important to have such a course taught in the college.

Betsy was also willing to give of herself to the community of scholars outside of the university. In her tenure application she describes one of her projects. Every teacher will recognize the value of this project, but also the fact that it is not one which brings prestige or enhances one’s career:

While the field of legal history as a whole has moved away from the exclusive reliance on case law, texts have not caught up; almost without exception each legal historian teaches from his or her own idiosyncratic

pile of dog-eared Xeroxes. In order to further an interchange about the wide range of sources being used today I undertook to collect and edit syllabi from legal historians around the country, which were made available at the 1993 annual meeting of the American Society for Legal History.

I don't have to tell you that Betsy was also a superb scholar. But I can say that when she and I discussed her tenure record, and she told me that she had already had a contract to publish her book, I asked her why not hurry, polish the dissertation a bit, publish it, and then, after tenure, work on another book, that will incorporate her evolving vision and fresh insights. I urged her not to be a perfectionist. But she would not hear. She had a clear idea of what the book should look like, and even though she wanted tenure with all of her heart—she was not willing to bend the standards that she knew were right.

Even without the book, Betsy's tenure was an easy case. It was clear that she was already a shining star. Her tenure letters, from the most prominent people in her field, were stunning, and the tenure committee's report to the University found it appropriate to emphasize how rarely had we, at Boston University, seen such a splendid file.

Betsy was also full of ideas and projects, to be undertaken once her book was complete. I wish to mention them, in order for us to begin to gauge the dimensions of our loss. Betsy was planning a project comparing divorce in the United States and Ireland, and expected to spend some time in Ireland for this purpose. She was also planning to study the economic regulation by church courts on the Midwestern frontier of the 1830s and 1840s. And she wrote:

After these projects are completed, I hope to begin a second book, one about which I have already had several discussions with . . . Harvard University Press, about the relationship between popular and theological decline in orthodox Calvinist doctrine, and legal notions of free will and responsibility, not just in criminal law but in areas such as tort and contract as well.

No one can fail to see the broad range, the creativity and the versatility of Betsy's intellect.

Betsy was also a warm and caring colleague. In particular, she was a devoted mentor to our young faculty—Kate Silbaugh, Hugh Baxter, Daniela Caruso, and many others as well. She was generous with her time, she shared her contacts, she knew how to listen, but—and this I heard from many—she was also demanding and uncompromising in her pursuit of true quality.

She was so very important to us, on so many levels. I know that her untimely death leaves a void that perhaps will never be filled.

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