

**Transcription of the Oral History Interview with
Susan Deller-Ross
July 8, 2003**

Ogilvy: Sue, welcome. Thanks for coming by. We appreciate it. I want to talk primarily about your experiences in clinical legal education, but I want to get a little background before we get there and kind of lead up to that. I noticed that you went to Knox College in Galesburg, Illinois. How did you get to Knox College?

Deller-Ross: Well, I went to school in Upstate New York, small rural villages, and my senior year in high school we moved to a suburban town close to Chicago. That is one of the schools I applied to. And I had also applied to Cornell. But I used to live right near Cornell, and I didn't want to be close to where I used to live, so I ended up going to Knox.

Ogilvy: And, what did you study there?

Deller-Ross: Well, I started out as a math major, and then after a year I decided I liked solving
0:01:00 problems but I wasn't into the theory, so I shouldn't be a math major. And thinking ahead I thought I'd like to go spend my junior abroad, so I switched to French. Then, when I came back, I decided what I really liked was English literature, so I actually started grad school at Brown in English literature, and lasted a grand total of two and a half months, and then from there went into the Peace Corps.

Ogilvy: What prompted that move?

Deller-Ross: Leaving Brown and going into the Peace Corps? Well, I took a really peculiar mix of courses. I thought I'd get all the stuff I had to study out of the way, so I took German, Introduction to the English Language, Chaucer and Restoration Plays, and found that this wasn't really intriguing me and decided, you know, I'd been more allured by the idea of being an English professor than my love of English literature really reflected. So I dropped out and lived in Washington for a few months, serving as a secretary to somebody, a lobbyist on Capitol Hill, and started thinking about the Peace Corps. I thought that would be a great way to spend a couple of years, so I applied. Because of my experience -- I had gone to France my junior year in college, which really opened my eyes, and because of my French speaking, I was sent to French-speaking West Africa, Côte d'Ivoire in West Africa. I spent a couple of years there.

Ogilvy: What did you do in the Peace Corps?

Deller-Ross: Well, I was sent over to teach French and sewing to village women. And the whole group of us, there were 14 women in my program -- we quickly decided when we got there that they knew enough of both. They didn't need that from us, so we switched it on our own to a program of teaching them to boil drinking water, build latrines and give pregnant women and babies more protein. In the

villages the high quality protein, eggs for example, were reserved for old men.

There was a terrible, terrible lot of stomach worm infestations, terrible hookworm, terrible guinea worm, just terrible health problems associated with not boiling their drinking water. Women had to walk miles to get their drinking water, and they would step in the water source and the guinea eggs – the guinea worms, which grew the length of your whole leg and exited at your ankles, would deposit eggs in the water and then somebody would drink them and re-infest themselves. So that was one of the many horrible diseases I grew familiar with while I was there – elephantiasis, leprosy, you name it. It was a very difficult living situation for people.

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Ogilvy: Wow. You returned in '67?

Deller-Ross: Right.

Ogilvy: And what did you do then?

Deller-Ross: I went into law school.

Ogilvy: How did you make the transition from an English major to Peace Corps volunteer to law school?

Deller-Ross: Well, again, it was the Peace Corps that helped me along the way. We had a training program, a summer training program. I was already a feminist by the time I graduated from college. I'd read Simone de Beauvoir while I was in France, "The Second Sex." And Betty Friedan's book had just come out the year I came back. So I was already interested in feminism, and one of the trainers in the Peace Corps program came from a family of lawyers, and so I didn't really know what I was going to do, but I knew I wanted to be a professional something. He said, "Well, if you want to have an impact on society, law is really the way to go." So, I'd never thought about law before. Matter of fact, I had a boyfriend when I was in college who brought a law book home for summer vacation and I looked at it and I thought, "Oh, it's so big, it must be really, really tough." This is the kind of naive thinking I was into. I didn't think I could do that. But anyway, so, this trainer in Peace Corps said it was a great way to make a change in society. So that kind of interested me. And then I loved to -- I loved logic. I loved Perry Mason murder mysteries. I loved arguing about things. So I thought it would bring together all those various streaks. So not knowing a thing about lawyers -- I had never met a lawyer in my life because we lived in these little rural villages -- I didn't have a clue what they did -- I decided while I was in Peace Corps to take the LSAT and apply to law school.

Ogilvy: And so you ended up going to NYU.

Deller-Ross: Yes. I chose NYU versus the West Coast because, having grown up in New York state, but far from New York City, I wanted to explore the city. So I ended up going to NYU there.

Ogilvy: Tell me a little bit about your experience. Was it what you expected?

Deller-Ross: I didn't have any expectations because literally I never really talked to a lawyer.
0:07:00 So I think the first semester was probably a little disorienting. I didn't know how to study for exams. I didn't -- I wasn't even aware that there were study groups around, so I was just studying on my own. I remember spending, it seemed like days, getting in my head what was a plaintiff and what was a defendant. And I remember going into my first exam in Civil Procedure and thinking to myself for half an hour, "Oh, I am going to flunk, I am going to flunk." You know, I had never flunked an exam in my life, so finally I pulled myself together and managed to not flunk the exam, fortunately. But once I had taken those exams, that first set of exams, I knew what they were looking for and then it was -- I did fine. But it was a very funny experience, and it was also a really, really large class and I
0:08:00 wasn't used to that. Knox is a small liberal arts school, so I was used to small seminar classes basically, and my section was 130 students. There were 10 women in the section, so you really felt like you stood out. It was an interesting time, because I remember my first year of seeing something on the placement board in the main hall on the first floor. It was a letter from either somebody from

Harvard or somebody from Yale -- I've forgotten which -- but they were talking about how both had a 5 percent quota on number of women admitted -- I mean, this was not a floor, this was a ceiling -- and neither would change because that's what the other had. So right from the very beginning I was conscious of these policies that were still in existence.

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I met in my sophomore year -- I think it was second year -- a woman who had been told by Columbia Law School that they weren't really interested in having women. She had been admitted to Columbia, but she came to NYU because of the attitude. So it was a pretty woman-unfriendly atmosphere at the time. I remember one of the law professors, I didn't have him, but one of them had a ladies day when he only called on women -- the other days he didn't call on women. I think his name was Professor [Petro, ed.]. And I got very involved in my second year in feminist organizing because I guess what was happening. The second year we had a big influx of women because at the end of the first year the draft deferment ended for grad students, so magically the enrollment of women at

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NYU jumped from 10 percent to 20 percent -- 10 percent was higher than any other law school in the country at the time -- and I gather that happened pretty much across the nation. And I was standing in line at the bookstore one day and a woman was behind me. She had been at the U.S. Civil Rights Commission as a staffer and I happened to mention to her, I can't remember why, but I mentioned to her that the law school had an all-expenses-paid prestigious scholarship called

the Root-Tilden Scholarship and it was for men only. She said we should do something about that. So in the course of our time there we led a big campaign on that issue. There were others that came along that were a lot of fun.

Ogilvy: Were there any professors there that you now look back on that maybe influenced you?
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Deller-Ross: Yeah, yeah. I think one of the ones whom I experienced as the most supportive was Professor Dan Collins. He was my Contracts teacher. I really loved in my Contracts class seeing him shift from a very persuasive argument on one side to a very persuasive argument on the other side. That was sort of [inaudible] moment for me. But he was really of importance to me personally and to the women's group there because when we started agitating to open up this Root-Tilden Scholarship program to women, it was he who helped us go back and research it. And in fact it turned out the law school faculty had voted to open it up of couple of years ago, but they had never complied with the vote. The administrator was very against it. And he said I think -- I remember that we looked at the trust instrument, so we pull out the papers and all along the story had been that the trust instrument precluded women from being Root-Tilden Scholars. Well, lo and behold, the trust instrument did no such thing. So there had been years of a no-women policy when it wasn't even required by the trust instrument. So we finally put together a petition, and got a lot of signatures. Some of the Root-Tildens, as a
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group mostly they opposed us; but everybody else was pretty supportive. Their greatest argument was, well, one of the great parts about the Root- Tilden program is living in a hall of your own and running up and down the hall naked and we couldn't do that, if the women came. You know, these are supposed to be future leaders of the nation, and this is the argument they are using? And, finally, I think we went and spoke to the faculty, and I even said if they didn't open it up we were going to sue. So they did actually open it up at that point. I think it was -- yeah, it was at the end of my second year and Jan -- that was the woman -- she and I were leaders of this movement, Jan Goodman. She'd actually seen the administrator later in the hall and he said -- she told me he was actually in tears about it, about letting women in. So, it was weird seeing how emotional people were about these things. The Root-Tilden emotionality you've seen most recently in the whole -- the way the VMI case, the Virginia Military Institute, the way they fought that and fought that and fought that. You know, they were passionate about it. I could never really quite understand that.

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Ogilvy: Was there anything like clinical legal education as we now know it at NYU?

Deller-Ross: I have a vague recollection that in my last year there was some criminal justice clinic that may have just started. I wasn't interested in criminal law, so I never looked into it. I think that's all that was available. I think it was a very beginning program. You'd probably know more about it than I do as to whether that was the

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year it started. But so I graduated not having taken any clinical courses. And it was purely an accident that I got into teaching, as a matter of fact.

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Jan and I again had helped start the first course at NYU on women and the law, and that's another amusing story. We went to the faculty committee and made our presentation in favor of having such a course. And at that time there were no such courses. There was a British legal philosopher on the faculty, Graham Hughes his name was, and he was on the committee, and he said, "Well, I can see building a course around a bicycle, so, why not around women?" You know, everybody thought there wasn't really anything to teach. Anyway, they let us have this adjunct course, and we recruited somebody to teach it. Then I graduated. And at that time I guess we had a conference -- I'm thinking it was in the spring of that year or maybe it was the fall the following year -- but, anyway, other women's groups were beginning to agitate for such courses.

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I had some friends at GW, so they too were asking for such a course, and they were looking for teachers. And one woman had agreed to teach it -- Gladys Kessler, who is now a federal judge -- and she didn't feel totally comfortable teaching it on her own. It was something new for her. Her perspective had been labor law, and she was in a public interest law firm at the time. So they were looking for somebody else to co-teach it with her. And so one of my friends, Nancy Stanley, who now runs mediation services at the federal court, called me

and said, “Can you think of any other ideas for somebody to help teach this course?” And I mentioned it to Jan, and Jan said because I was going to D.C. to work for the Equal Employment Opportunity Commission, she said, “You should teach it.” I said, “I should teach it?” She said, “Yeah, we’ve got to start promoting our own.” So that’s how I came to be -- having just taken this course, of course I was a great expert, and somebody was starting at Yale in the spring semester of my last year -- Ann Freedman and Gail Falk and Barbara Brown, a group of students who were in their second year, I think were teaching their own course. They had put together their own course, so they invited Jean Murphy, who was a classmate of mine, and me to come up to teach one of their classes –

0:17:00 wow – and because I had done some writing at that point also on some women’s issues. We ended up going up for a day and leading this one course. We had written an article called “Liberating Women, Legally Speaking.” It was a book that Mark Green, who is still at Harvard Law School, had put together -- and through one way and another, he’d heard about me and said would we do such an article. And I had been researching on women’s rights issues under a civil liberties program that I was in, and so I’d acquired a fair bit of knowledge about Title VII and how it was being used to address women workers’ complaints of sex discrimination. So that is what the article was about partly – that and the Equal Pay Act. So we went up and talked about Title VII and the Equal Pay Act. So

0:18:00 that was my great expertise for becoming a teacher. So I went to GW that fall, I started at EEOC, and Gladys and I co-taught the first Women in Law course at

GW. That too was -- well, no, I guess as adjunct you would have nothing to do with the regular faculty. Years later I actually taught as a full-time faculty member at GW for a couple of years. And my first year there I was at some kind of faculty reception, and somebody asked me in a very puzzled way, "Now there is nothing to teach in that course -- what would you teach?" So that was the beginning ambience that we faced in law schools at that time.

Ogilvy: Was the course work that you were doing in your last years of law school and the program that you were in, is that what led you towards the EEOC, you think?

Deller-Ross: Yeah, it wasn't actually course work. I had a Hayes Civil Liberties Fellowship Program under Professor Norm Dorsen, and he assigned as one of my projects to work at the American Civil Liberties Union, which had just voted to oppose the Equal Rights Amendment. The opposition was based on the ACLU's historic support for state labor laws that they called protective laws, but actually they prohibited women from working in certain circumstances. And there were two women on the ACLU board of directors who were big activists and wonderful women. One was Polly Murray, who was a woman of many talents. She was an Episcopal priest, a poet, a lawyer -- you name it. She was just a remarkable woman. And then another woman was Dorothy Samuels, who was a real longstanding progressive lawyer, basically. And both of them were very upset about the policy, and had contacted Norm about trying to turn it around. And

there was a new lawyer at the ACLU, Eleanor Holmes Norton. So I was sent off to meet with Eleanor, and she assigned me to write this memo investigating what was the source of the opposition, and were there any arguments to turn it around. Because I had taken the course in the fall, the first Women in Law course, and we had taken it with Leo Kanowitz's book on *Women in the Law* that had just come out, I knew a little bit of the -- about Title VII from that book, I think it was. And so one of the things I did was to go start researching Title VII law. And in the course of researching it I found out that all these state laws were being struck down. So I wrote a memo saying basically it's a moot issue, they are being struck down anyway, and also pointing out what was wrong about the policies that they didn't consider people on the individual merits. You know, maybe some women were stronger than some men, maybe some women would prefer to work at nights so their husbands could stay home with the children, you know, those kinds of arguments. So that got me very interested in EEOC, and it was wonderful watching Eleanor in operation, because she had a really, even at that early age, a very astute political judgment. And with her help I revised and edited the memo, and it was eventually submitted. They did vote to turn their policy around, so that was great. Now I've gotten lost in a side thought, so I can't remember where else I was going with that.

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Ogilvy: Tell me a little bit about the fellowship program that you were in.

Deller-Ross: Okay. Well, it was a fellowship program, Hayes Civil Liberties Civil Rights, that's what it was, and Norman Dorsen was running it entirely on his own in those days. Sylvia Law, long after I left, became a co-director with him. I think they just added a third. But basically it was a little bit of money in your last year, and they assigned you to work on different civil liberties/civil rights projects in New York City with lawyers who needed help. So I had one small project with, oh, the progressive left lawyer, I'm trying to think -- whose daughter was ultimately involved in -- Bodine was it? -- Leonard Bodine I think. And another one was this project at ACLU. I've sort of forgotten what the other ones were, but, actually I ended up writing a brief for the ACLU in the first -- it was actually the first Title VII case on sex discrimination to go to the Supreme Court. It was in 1971. and it was called *Phillips v. Martin Marietta*, and it involved a policy whereby Martin Marietta would hire fathers of preschool-age children but not mothers of preschool-age children. They justified it on the ground that it wasn't based on sex alone, but on the combination of the fact of your sex and your parenthood. So it wasn't based "solely" on sex within the meaning of Title VII, and it had been upheld by the Fifth Circuit with a passionate dissent by Judge Brown, who wrote a woman is still -- no, a mother is still a woman, [inaudible] if this bill, -- if this decision stands, Title VII is dead. So it went up to the Supreme Court, and I was asked to write the ACLU brief on it. And really I wrote the whole brief myself. Joel -- I've forgotten Joel's last name now -- but he was the general counsel I think at that point -- Gora, Joel Gora I think it was -- he edited a little bit but not

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much. So I got to write one of these early briefs. I can't remember if that was before or after *Reed v. Reed*, the brief -- the first women's rights brief that Ruth Ginsberg submitted. It may have been before, because I wrote that in my last semester at law school and I think *Reed* came along the following fall. I wasn't there when she was actually writing that one, so that was another great project which I loved. I mean, it got me all passionate about these issues and by happenstance I had actually applied to work with law firms, not really knowing what lawyers did. And I actually got an offer from Paul Weiss. But one day I saw in the hall a sign that EEOC was coming to interview. Well I knew what EEOC was because of these various projects, so just on a whim I decided, "Well. I will go interview." There was this great guy who came, his name was David Cashdan, and he is now, actually he became a partner of Gladys Kessler's, and he is still working doing public interest law. And he hired me -- although the EEOC general counsel's office hired me. So that is how I ended up going to the EEOC, because this was my one chance, as far as I knew anywhere in the country to work on women's issues, so I went there in the fall of 1971 -- no, 1970.

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Ogilvy: And you stayed two years.

Deller-Ross: I stayed two years.

Ogilvy: I don't want to spend a lot of time, because I want to move forward to the clinical

stuff a little bit, but what sorts of things were you doing? Anything really memorable?

Deller-Ross: At EEOC?

Ogilvy: At EEOC.

Deller-Ross: Oh, yeah, I got to write a lot of briefs on women's rights issues, so I loved that. I wrote a brief for the Sixth Circuit in the *Cleveland Board of Education v. LaFleur*. That's the case about pregnant women can't be seen once they are visibly pregnant – I mean pregnant schoolteachers – so they have to go on long leave. And I dealt with some of the aftermath of some of the state protective labor law legislation looking at whether women could get back pay for some of the discrimination they'd suffered. And I argued a case – I think it was out in the Sixth Circuit, I can't quite remember – *Ridinger v. General Motors*, I think that case was. And I did some race discrimination work as well. So I was really in heaven. I got to do those things. I worked on the EEOC guidelines on sex discrimination and really was the primary instigator for changing their approach on pregnancy issues. And that came about because I was talking with Catherine East who was a government lawyer who worked with the citizens advisory counsel on the status of women, and they'd come up with a policy paper saying “treat pregnant women the same as other workers who are medically disabled, not

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0:27:00 worse, not better.” So that was the EEOC approach I pushed for. So those are some of the things that gave me great satisfaction: changing some of those EEOC guidelines, not just on pregnancy but on some other issues; doing these women’s rights briefs, working on race discrimination cases.

Ogilvy: And, why did you decide to leave?

Deller-Ross: I was going to start – in fact I did – a small women’s rights law firm back in New York City. So six of us got together and did that.

Ogilvy: Who were the others?

Deller-Ross: Carol Bellamy, she was the senior one of us – she had been out a couple of years, a few years, and I can’t remember if she was in the New York State Assembly – yeah, she might have been; Jan Goodman, who is the friend I mentioned earlier; two women from the class after – no they were in Jan’s class too – Mary Kelly and Diane Blank, Nancy Stanley from down here. I think that was the six of us. And so we started up the first women’s rights law firm in New York City.

0:28:00 Ogilvy: Did that Blank happen to be the Blank that was a plaintiff in the suit against Sullivan?

Deller-Ross: Absolutely. Yeah, we were all -- we had been activists together at law school and we continued that. In fact we started that -- that came about because we confronted one of the firms when they came for hiring about whether there were policies where women were not allowed to do anything other than trusts and estates work because they knew how to take care of widows and children. And there was also a policy at that time that a lot of firms had, which was they had their annual firm outings at places where either women weren't allowed or you actually had to go in a back door. So we queried them on that. The Southern District of New York, the U.S. Attorney for the Southern District of New York in that era wasn't hiring women for criminal work because you would have to work with criminals, God forbid. So it was really -- I can't tell you enough about what a different era that was. You know there were no women law professors at NYU. We lobbied to get our first woman law professor, and NYU, in its wisdom, turned down Ruth Ginsberg.

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Ogilvy: Tell me a little bit about the firm. How did it work out?

Deller-Ross: Well, I left after a year. I wasn't really happy in the private profit sector. You know, none of us had really any experience running a firm. Three of us were straight out of law school. I was two years out of law school -- or I guess they were all one year out of law school. I didn't like keeping time sheets and selling myself and all that goes into private law. So I basically got out pretty fast. Just a

little over a year I guess it was.

Ogilvy: Did the firm continue?

Deller-Ross: Yes, it did for a few years. Eventually it did – most of the people left and Jan
0:30:00 continued in private practice, I think with Jemera Rone, who was a partner who joined later. She is now a human rights lawyer doing a lot of good work around the world.

Ogilvy: And so next you went to the ACLU?

Deller-Ross: Actually I took some time off. I'm trying to think when in that -- during that time, I guess while I was still at EEOC I started writing. Norm Dorsen had asked me to write a book on the rights of women. They were doing a whole series of ACLU books on the rights – so it started on that. Frankly, now it is a little bit blurry in my mind as to what I was doing for a short period of time, but I think I took about a year off and was doing some teaching at NYU, some adjunct teaching, I think Women in the Law – that's probably what it was.

Ogilvy: And then to the ACLU?

Deller-Ross: And then to the ACLU.

Ogilvy: In '75?

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Deller-Ross: Yeah, I started in '75, so my – I think I must have been at the firm from '72 to late '73, I guess, and I did some teaching. I worked. I guess I finished the casebook in that interval. We got it published. It was a race, and Ruth Ginsberg beat us to publish the first sex discrimination law casebook. So that came out in 1975, and about the same – and so I'd finished that during this time off, I guess, also. And I started work at the ACLU in 1975, in the fall of 1975.

Ogilvy: What were you doing there?

Deller-Ross: Well, I was in the Women's Rights Project. We had gotten a small grant from the Carnegie Foundation to start a clinical law program. So I was the clinical director and starting in – we put it in motion in '76-77, '77-78. Of course, I had never had a clinical law course, but it turned out that Nadine Taub was already running a clinical women's rights program at Rutgers, and she was going to go on sabbatical – I think she was going to go to China in the spring semester of that year. So that fall Nadine and I taught together the Women's Rights Clinic, and we involved Rutgers students in some of the ACLU litigation. I worked with her teaching the seminar and supervising the students. And then in the spring, she went on her leave, and I taught that course on my own while she was on leave. And then in the fall of the following year, Ruth Ginsberg and I actually did the clinic together

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for the year at Columbia. That was a lot of fun. That was very interesting.

Ogilvy: Let's go back – the first year you did it with Nadine?

Deller-Ross: Yes. Yes, I did.

Ogilvy: And it was all Rutgers students?

Deller-Ross: That's right.

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Ogilvy: Were they getting course credit for it?

Deller-Ross: Oh, yeah, yeah, it was a course for credit already. It had been in business for a couple of years. I don't know exactly what year she started it, but it was one of – had to be one of the very earliest clinics. She was incredibly energetic. I mean, she did women's rights cases on a zillion issues. She did some of the Social Security litigation that went to the Supreme Court. She may have done some abortion rights work. You name it, Nadine was involved in it. You know, she is very active in the local ACLU in New Jersey.

Ogilvy: And so this was a collaboration then, her students were working on ACLU issues?

Deller-Ross: Some of it, and some of it was her ongoing litigation. But, yes, the whole purpose was for the ACLU staff lawyers to work with clinical programs, basically to set that up and work with them and then to involve their students in our litigation. So
0:34:00 it was a way to help us get our litigation done, and it was a way to give students live experience with active women's rights cases.

Ogilvy: Was there anyone else at the ACLU involved in the clinical programs beside yourself?

Deller-Ross: Yeah, the director of the Women's Rights Project at that time was Kathleen Peratis – she didn't co-teach the seminar, but she did work with students. What we did was, I think maybe at that point there were only two of us who were staff lawyers – I can't remember for sure. At some point there was another staff lawyer, and so we each took on some of the students to work on supervising their actual litigation. So we had individual supervisors for the litigation. And then we had the seminar that I co-taught or taught on my own, depending on the situation at Rutgers and then Columbia.

Ogilvy: What did you do in the seminar that might have been different than what you do
0:35:00 in your Women in Law courses?

Deller-Ross: Well, it was a lot more focused on real-life litigation choices. I was trying to

remember this morning whether – I don't have a clear recollection of the methodology that we did at Rutgers – methodological teaching in the clinic setting. I do remember posing a lot of hypotheticals that were real live issues and showing them how in one context they might be arguing against a single-sex approach, whereas in another change – you know, whether it is truck driving in one versus privacy in a hospital in another, they might equally well turn around and argue for it – trying to get them to think out their perspectives on that. I know at Columbia we did some actual litigation training in the seminar. It could be that we did that at Rutgers – it's been what? – 30 years ago now. I remember having students do live depositions – I mean not real depositions, but simulated depositions in class at Columbia. So we clearly were getting out there and beginning to do work of that kind. And I think probably a lot of it was training on the job with the students. We'd give them discrete pieces and then work with them. I guess we talked about how to draft a complaint. That was probably one of the things.

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Ogilvy: How did you make the connection with Ruth Ginsberg at Columbia?

Deller-Ross: Well, she was the general counsel to the ACLU at the time. You know they have some – probably Joel's title probably wasn't general counsel – they had people who were volunteering their time to be general counsels, and then they had a lawyer who ran the legal office basically. Joel Gora was the person who ran the

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legal office for ACLU. Anyway, she was already very active on women's rights issues herself. Remember, I went there in '75, and she had filed her first women's rights brief for the Supreme Court and won it in the *Reed v. Reed* case in '71, and had filed several briefs in the interval. So she was really the person who started the women's rights project at ACLU, and was kind of the senior advisor to the work we did. So she was very interested in doing this after the year with Nadine, because it's just supposed to be a one year slot at Rutgers, and we took it and ran with it.

Ogilvy:

Are there any particular cases that you remember from that year ?

Deller-Ross:

Well, the case that I remember most vividly was a case called, *In Re Kirkhuff*, and it was about a woman who had been, in the Navy I think it was, and they wouldn't

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give her veterans' hospital benefits for having a baby because they viewed pregnancy as a normal condition, not a disability. Or they had some explicit exclusion I can't remember. So we worked on -- the two students who worked on this with me, we worked on drafting an administrative challenge to that doing the legal research, drafting initial papers, starting that lawsuit. Subsequently, at the end of that year, I left to go down to D.C., and that is when I started teaching at GW for a couple of years. So I wasn't there as the case progressed, and subsequently I went -- after two years at GW I went to the Justice Department in the Civil Rights Division, and met somebody in the division who basically had

0:39:00 defended and won against the decision in one of the circuit courts – I can't remember which one – so that was sort of annoying.

Ogilvy: You mentioned that you left the ACLU in 1978 and went to GW to teach.

Deller-Ross: Yeah, I was a visiting professor there.

Ogilvy: Okay. What caused you to make that transition?

Deller-Ross: Well, I think at that point already, because I had done a little bit of adjunct teaching, I was starting to get – , “Hmm, this might be a fun thing to do” – and it also gave me chance to work on women's rights issues, which as you can tell I cared a great deal about. So – and by this time I had actually written a casebook. You know, I didn't do it while I was a teacher, except as an adjunct teacher, so I got the idea of applying for law school jobs and I applied for one at NYU which I didn't get. But then this. I guess what happened was my friends at GW said there was this opening at GW. They told me about it, and they invited me to come as a visiting professor. So I did. And I taught, and I had a very heavy load, in retrospect, knowing what – how they help people who are on the tenure track. I taught Administrative Law, Civil Procedure, Civil Liberties and Civil Rights and Women in Law. And it was funny, Ruth had warned me when I went down – she said – because the dean had said to me, “Oh, it should be easy to get an offer once

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you are here,” and she said to get it in writing. Well, I was too young and naive and sort of nervous about this implication, so I didn’t. And there was someone there on the faculty who was very anti-feminist and he campaigned against me. That was another interesting experience.

Ogilvy: Next was DOJ?

Deller-Ross: DOJ. I worked in the Civil Rights Division there – case of the worse timing in the world.
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Ogilvy: Starting in 1980?

Deller-Ross: Yes. Well, what happened was I was interviewing in the spring of 1979 – I guess it was ‘79 – no it was the spring of ‘80. Okay, because I had a baby in May and so Carter was still in office, Drew Days was the assistant AG at Civil Rights. He said, “Would you be interesting in coming?” I went over and talked to him. I’d just had the baby, so we agreed I would come on – my hope was to come on in around September. He said, “No, I really think you ought to come back.”
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Meanwhile Reagan had been nominated. Who knew he was going to get elected? He got elected. Drew left in November. But it was interesting. I was able to get – Drew created a special position for me, Special Counsel for Sex Discrimination Litigation, which gave me freedom to work with the different sections at Civil

Rights and to help them start cases on sex discrimination. At that point they still weren't litigating sex discrimination issues. Dave Rose, who was the head of the employment section, thought women's issues were middle class, unimportant, just about money – didn't matter if women got higher paying jobs, so he never brought cases on the issue. I'd been aware of this because of my work at EEOC. And basically none of the sections were doing women's rights litigation at that point. So I asked to work with the different sections and help them get started doing some sex discrimination litigation. You would have thought with Brad Reynolds coming on that I wouldn't have much success, but actually I prevailed against Dave doing some sex discrimination cases. I stopped a settlement against the Buffalo Fire Department that Dave was going to enter, which although it was brought on behalf of women and blacks only gave relief to blacks, got some great lawsuits started. One was against the state of Rhode Island because they hadn't changed their temporary disability policy, so women who were pregnant still didn't get as many benefits as other state workers. You know, so I was able to, surprisingly, able to get some good sex discrimination cases started, I think because it was so flagrant at that time still. We tried to get a case started against sex-segregated locational educational programs, and actually Brad went with me over to meet with the relevant assistant secretary at Education – of course that was Clarence Thomas – and Clarence said no. No surprise! But the statistics that were in existence showed extreme sex segregation of locational educational courses, and even some schools in New York City were explicitly still segregated,

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I believe.

Ogilvy: What was the rationale at Education at that time for not pursuing these issues?

Deller-Ross: Oh, this is men's work. Why would we have women in these programs? You know, remember the era that you and I probably both grew up in – the boys took Shop and the girls took Home Ec?

Ogilvy: Yeah, exactly. Well, it sounds like you had some successes there despite the timing issues.

Deller-Ross: Yeah, yeah. No, it worked out. But then this great position opened up at Georgetown.

Ogilvy: How did you hear about that?

Deller-Ross: I think actually Nancy called me up and said there was an ad in the newspaper – “This might be something you would like.”

Ogilvy: Nancy?

Deller-Ross: Nancy Stanley. We'd gone to college together, so we were long-standing very

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good friends. I read the ad and it said Women's Rights Clinical Program and running a Women's Law and Public Policy Fellowship Program. It was a brand-new thing. So this looked like the job made for me. So I was thrilled at the idea and went and applied, and had several sets of interviews and eventually was offered the position. So I started there that fall – this was; excuse me, summer, July of '83.

Ogilvy: And what did you find when you arrived?

Deller-Ross: Well, everybody I found at that stage, you know we were all in our own separate little offices, so it was kind of an isolating experience. And one person warned me that – I don't know if he used Wally, his name explicitly, or whether it was clear who he meant – but he said he was very upset I had gotten the job. He was backing the incumbent who had started the program a couple of years earlier, and was really unhappy I had been hired and thought it was favoritism that Wendy Williams, who I had done some work with, had really pulled strings and that's why I was hired. And, you know, I mean, Wally's great, but that was one of the very first things I heard. And then I got a welcoming call as soon as I got the offer from Phil Schrag, who also has become a good friend. He called to say we had a friend in common, Ruth Ginsberg, and welcome. And then he said, "And I really think you should ask for different office space, because we don't have enough." So there I am a new hire, and he wants me to go off and lobby John Kramer to get

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additional/different office space. So I felt really uncomfortable about this, but I was in no position to say –so I dutifully went off – to my relief, Kramer said no. So those were a couple of my beginning situations and then – .

Ogilvy:

This was when the clinics for the most part were in 605 G Street?

Deller-Ross:

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We were at 605 G. Basically I think Rayburn had started the program in 1980 with a grant from the U.S. Education Department and she handled [inaudible] as a case. They specialized in employment discrimination and administrative agency litigation. She started, I believe. in the first year as an adjunct, as a part of Phil's clinic, and then sort of branched off on her own. It became her own separate clinic, and then the funding ran out. So the other part that happened was the way they kept the program running – because the funding had run out – was that when Eleanor Norton, who was on the faculty by that point, and Judy Lichtman and Marcia Greenberger were contacted by Eli Evans who was by then – well, I don't know who contacted whom. I think it was Eli – he was still at Carnegie Foundation. He actually had, while at Carnegie, funded the production of our first casebook, and he was interested in starting a fellowship program and initially the law faculty said okay, if Revson would fund the entire faculty position, and the faculty person would both run this new fellowship program and run the clinic. Revson held out and said, "No, you have to pay at least half." So that's how the law school created that position, they half-funded it. When I came on it was half-

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funded by Georgetown and half-funded by the fellowship program, so I really had two bosses. I had the law school, who was my official employer, and then I had the fellowship board. The fellowship program was a brand-new entity, so I had to start and run a whole new program that had never existed before – run this clinical program which is already one person’s full-time job’ and, because they had just created clinical track, and I was hired on a clinical contract, begin to write. It was funny, because the year before I went there Wendy and Ann Freedman, who was co-author on the first edition – Wendy was not – Wendy subsequently did the first supplement; first and only supplement to that casebook – they came to me and said they would like to do the revision, and they really didn’t need my help, but it would be nice if I took a look. And I said, “Oh sure, that’s fine.” At that point I had no desire to be writing. Well, soon after I got there it turned out that they really wanted – weren’t making the progress they expected, so would I do the employment chapter. So, anyway, I ended up working and writing right away. So I had all those three things: I had a new baby who was at this point two years old, and I had a son who was six. So it was quite a hectic first few years trying to keep all these balls in the air.

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Ogilvy: What kind of projects did you start generating?

Deller-Ross: Well, because I had done a lot of both equal protection – I’d done some equal protection litigation in the course of my work as well as Title VII work, and I was

really much more oriented towards litigation in courts, I thought that was more valuable, so I switched the program right away into courtroom focus rather than administrative agency focus. I did a lot of skills training in federal court work.

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Most of our work was federal court, although we did have some that was in local court systems, expanded from just doing employment discrimination, though that was a very primary focus to doing – oh, I know we had in the early years – we had a case under the Credit Discrimination Act. We had another case under Montgomery County’s fair – I’m trying to think – the public facilities fair law. That was against a deli who insisted on giving reduced priced sandwiches to women on ladies night. We had an offended male client. The newspapers were up in arms about this outrageous suit being brought, and you know that is a great story in and of itself.

Ogilvy: Go ahead and spin it out.

Deller-Ross: Okay, okay. Well, at some point there was an indignant editorial. I guess we lost at the first stage before the Montgomery County Commission, whatever it was, so we took appeal to the First Maryland Court of – not the highest level of appeal, but the one below it – I’ve forgotten the name of that intermediate appeal level. And the brief – we’d both tried the case before the Montgomery Commission, and at that point I was having a new fellow coming on each year, and the new fellow for that year wrote the appellate brief. What the deli had done in response to the

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initial ruling – maybe they didn’t entirely prevail or maybe they had put together – here’s what it was, they had put together a policy that anybody who wore a skirt could come and get the reduced-price sandwiches. And there was a big joke about it, a lot of publicity -- the Redskins’ Hoggettes came in their skirts – they got the reduced-price sandwich. So we wrote a brief that at the end pointed out that they were “skirting” the law, and that was the real intent. So the intermediate court actually struck down the policy because it was so blatant that they were really trying to avoid the law. But meanwhile there was this indignant piece in the Montgomery County Journal. I think it was about these middle-aged spinsters, who were lesbian spinsters undoubtedly in their minds, who were bringing these lawsuits. Here I was with my two-year-old and my six-year-old, and so a bunch of us eventually put together a letter to the editor which was published which pointed out the other points of view possible on the issue. Meanwhile, Bob Pitofsky, who was the dean then, showed me a letter that Sherm Cohn had written to him, or some kind of communication that he had from Sherm, saying this is horrible, this is a terrible blot on the law school’s reputation and what should we do about this.

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I mean Bob handled it very well. He said to Sherm, you know, it’s okay. But there was still that kind of atmosphere around. You know, this is embarrassing to tackle, especially in this setting I suppose because we were representing a man who had been discriminated against on the basis of sex. But the Montgomery County law was really explicit – no sex-based differentials in pricing. You know there was no way they could really get out from under it. So there was a lot of

negative publicity but also the fun of challenging it and winning. Actually it wasn't just who wrote the brief, you know, it was a law student project, of course. It was law students who tried the case with Sarah Burns, who now teaches clinical law at NYU. And then the next year it was law students working with Joan who did the appeal. And of course Joan went on and did a lot teaching at -- political teaching at GW.

Ogilvy: Joan Strand?

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Deller-Ross: Joan Meyer. Domestic violence kind of litigation. So that was one of the fun early projects.

Ogilvy: Were there other instances like that where there was potential negative publicity that the university or law school was faced with? I ask that because you see that a lot now with environmental law clinics.

Deller-Ross: Right -- right.

Ogilvy: But I can imagine at least in the early years the sex discrimination -- .

Deller-Ross: I never -- I think that was the only experience I had directly of it. I worried a little bit -- I did take one case to the D.C. FEP Commission on behalf of a woman. I

0:56:00 think she ultimately withdrew. I can't quite remember the resolution, but she'd had an ectopic pregnancy, and obviously you need an abortion for that. So she was seeking coverage. And you know the thought did cross my mind, What does a Catholic institution say about this? – but I basically felt that we had free rein to take the cases we wanted. And if there was a worthy cause, this was one, an ectopic pregnancy. So I went ahead. But I never got any feedback on it. I didn't publicize it particularly. I think I reported to the dean yearly what my cases were, so undoubtedly the dean knew, but I never heard from the dean about it. So . . .

Ogilvy: Now, you were promoted to professor.

Deller-Ross: Yes, after three years.

Ogilvy: In 1986; relatively quickly.

0:57:00 Deller-Ross: Yes, I think because I had come on having already taught, having a casebook, I also had *The Rights of Women*, which I'd published. I think at that point I'd done some articles as well. And I was older. You know at that point I had been out of law school for eight years, so John pushed for me to join as an associate professor – John Kramer. I mean, I guess it was John – I don't really know. There was another interesting thing. He told me when I came on that I was way underpaid compared to other teachers with like credentials. But the view was, well it's

outside money or it's half outside money, so no problem. But from the beginning I was told that I was not being paid the same as others, and I subsequently find out that some of the clinical teachers who were less senior and had published less, who were men, were indeed getting more than I was.

Ogilvy: Is that a rectified now?

Deller-Ross: Who knows for sure? When Judy came in, I talked to her about it. I said, "I know other women too have experienced sex discrimination in salary." Wendy told me that when she became tenured she got an enormous jump in her salary. She had the impression Pat King too – who knows what Judy had experienced – and I
0:58:00 hoped they would look into that and treat me fairly. That's about all I said. Well, I got some very big pay raises for a few years, and then I got the highest level pay raises for many more years, so I think Wally was really dead-set against all this, but when he saw the actual numbers – I heard all this through the grapevine, mind you – yes, indeed, it turned out I was being paid less. So I don't know how he felt about it, but that was the behind-the-scenes stuff that he never told me directly. But who knows? I've never gone in since and said, "Hey, how does it stack up now?" I mean, there were also men, my tenured professors who came on after I did with less publishing, no publishing, my era – you know they were on the explicit tenure track – I'm guessing they got paid more from scratch than I did.

Ogilvy: Mm-hmm. When you were promoted, was that still on the clinical track?

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Deller-Ross: Yes, yes. It wasn't until years later that we had the official tenure track. I always intended to go up for it. But, you know – this is probably no surprise to you – at that time Wally was really against the tenure track, and it wasn't until – actually it was on a committee or maybe – I can't remember quite what the committee was, but Mark Tushnet was on it, and Wally was on it, and I was on it – maybe it was just one meeting I attended – I can't quite remember – but they were considering this issue, and I said something to Mark about if you continue treating it as a two-tier system, you are going to attract less qualified people, and the people you get are all going to want to get on the other track. If you want the most qualified, you have to give it the same credentials as you'd give the other people. And I think that really made sense to Mark. So later I think it was that committee finally recommended going for tenure. And, years later, Wally said, "I was wrong. I shouldn't have opposed it all these years. It was better, blah, blah, blah" – but it wasn't really Wally who was leading the charge on that. So that was kind of interesting too. And then it took me years – I basically had a draft of my chapter, but the book hadn't come out when I went up for the promotion to full professor. So they approved me on that, but the casebook was kind of a disaster. We kept adding new people who didn't get the job done. We added Nadine; she didn't do the stuff she was supposed to do. I guess we added at the end Deborah Rhode. We added Rhonda Copelon to do the abortion stuff, and it took ages. And finally

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1:01:00 I ended up doing a lot more on it than just the employment chapter. I wrote chunks of the family law chapter. Wendy and I basically did all the final editing of the manuscript. Barbara Babcock did some of that as well – the proofing, all the dirty work – but eventually it came out years later. And not until it came out and I had some other publications by that point did I go up for tenure.

Ogilvy: You've had a lot of fellows over the years.

Deller-Ross: Yes, an enormous number – one a year up until the International Clinic.

Ogilvy: It is always dangerous in a situation like this to ask you to pick out one or two that are memorable, but I'm going to anyway.

1:02:00 Deller-Ross: Oh, that is really hard. They are all memorable in their ways. Well, Sarah was the first one. She was very talented, and she was really an entrepreneur. We got attorneys' fees in some of our early litigation, and I think there was a little bit left over from Laura Rayburn's work, maybe \$6,000 or something. But, anyhow, at the end of the first year, she said, "I would love to stay on." Of course, I was dying for help so I was thrilled at the idea. So we put together a little bit of money we had from attorneys' fees, and we went to John Kramer and said, "On a soft money basis could we fund it?" Okay, that was fine with him. So we kept that going for a few years. And, meanwhile, new fellows kept coming each year, so I

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actually had somebody working as a co-director – assistant director I guess for several years, first with Sarah. And then she went on and got a wonderful position at NOW LDF, and then she got this wonderful position at NYU doing clinical teaching. So she had incredible vigor, drive, commitment. I mean all the women who came had incredible commitment, you know. So she is one. Deborah Epstein of course is a standout, and now she is running the clinic I used to run – renamed it Domestic Violence Clinic. She too stayed on and became my assistant director first. And then when I started the International Women’s Human Rights Clinic, she took over and got the tenure appointment and now has tenure at Georgetown. So both of those women were great. Johanna Bond, same thing -- she worked with me for two years as a fellow -- at that point, we switched -- we were the only clinic that had only a one-year fellowship program, so when I started the International Women’s Human Rights Clinic, we made it a two-year fellowship program. So Johanna from the beginning was going to stay on for two years, and then again through outside funding, because I got some money from USAID to start these new international programs because it involved getting some pay to the women’s rights groups in Africa that we were working with. We got some soft money for her to stay on so she too was a visiting professor, and she stayed with me for another two years. And now she’s taking off, taking a leave of absence from the school and coming back in a different position as Acting Director of the Women’s Law and Public Policy Fellowship Program. So you know all three of those. But, you know, those are the ones I worked with, each

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1:05:00 remarkable in their own way. Johanna was just a dream to work with, and she came on with more understanding of international women's human rights work than I did. I'd been teaching a non-clinical course for several years, since the early '90s, so I knew a lot of the basic law. But she had actually gone out and done international human rights projects – she's been to different countries and done fact-finding – and so I really enjoyed working with her and under her influence. I pushed for this fact-finding component of our current clinical program. And I was skeptical at first, but it turned out to be a marvelous, marvelous educational opportunity.

Ogilvy: Let's talk about that program. First I want to go back. Did you have just one fellow per year or did you have more than one fellow at any time?

Deller-Ross: Oh, no, I never had more than one fellow. I've always had just one fellow, but it was basically the equivalent of having a fellow and a more experienced person because through soft money, I think every single year after my first year, I had somebody there as an assistant director. So this coming year will really be the first time – and the administrative work has become so onerous that we had another year of Johanna's salary and we decided with her leaving to hire a grants administrator, because really on its own it's basically a full-time job, and I couldn't handle it on top of everything else I'm trying to do.

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Ogilvy: How are we doing on time? Let's talk about the transition to the international work. How did that come about? What were the precipitating events, I guess?

Deller-Ross: Well, I had gotten more and more interested in international women's human rights. The more I learned about it, starting with the fact that when I was still running the fellowship program we got money from USAID to bring African women's rights lawyers to Georgetown and to take -- to get an LLM with the focus on gender issues, and I really planned the curriculum for them which -- they were immersed in the law that we had used in the United States to change women's legal status, which meant Family Law, Con Law II, Equal Protection, Equal Employment Opportunity. They all took my course, which I had developed initially with some other people, Naomi Cahn and Anne Goldstein -- this course on International and Comparative Law and the Rights of Women. Anyway, these African graduate students were all in the program, and there were other graduate students that were attracted to the course, and I began learning more and more about the laws on the books in these countries. And of course I was interested because I had been in West Africa -- I lived there for two years -- and they were just appalling, but lot of echoes with the laws that were on the books in our country not so long ago. And I had the experience by that point of seeing in, oh, 25 years of legal practice, the enormous difference that using law on behalf of women had made in their legal status and their ability to do better in life. So I began conceiving that you could do the same thing with these laws that were on

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the books in other countries that were even worse – legalized polygamy throughout Africa, much of Asia, female genital mutilation, no laws against it – you name it, it was horrible – no rights to inherit land, any property from your spouse. I began to see how you could use international human rights law at the domestic level as an enforcement tool, both to talk parliaments or legislatures into passing new laws that complied with the commitments that these countries were taking on when they ratified the human rights laws, and how you could use it in litigation.

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You know, a lot of these countries were developing very progressive constitutions in the late – well, starting in the early '90's – and the Universal Declaration on Human Rights and the subsequent human rights treaties had had a major impact on them, and they were actually writing these protections into their constitutions and setting up constitutional courts. It was just that there was no tradition of using these constitutional courts for social change, but the tools were there, and this was ripe for equal protection type litigation, which occurs in all the constitutions and in the international covenants they'd all signed onto. So it was my idea that we could start programs working with our alums to improve the legal status of women through urging legislatures and courts to take the same kind of actions we'd taken in the United States armed with these new human rights tools. So that was sort of the genesis of it. Really it was me working off of my activist background and thinking, you know, pulling all together the pieces of my life

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really, and saying, “I’d love to go back there.” I knew from living on the ground how awful the lot of African women was. You know they are the work horses of the African economy. The men sit around at the end of the day drinking palm wine – the women are still working. They work up until midnight, and they get up at 5:00, and they are the first people working in the morning. You know this is rural Africa I am talking about – but it is a horrible life. So I really wanted to make a difference in their lives, and here were these committed women’s rights lawyers coming from Africa. They’d already been working on women’s rights issues in their own countries. It was like the start-up days of our efforts and it just seemed like that would be a great way. So I put this whole idea together. In various ways I began lobbying for it. And early on, before the 1995 Beijing Conference, I worked with USAID and sort of planted the idea of legal clinics as a way to work on these kinds of issues. And, lo and behold, that wended its way into their post-Beijing U.S. goals for AID. So that set up being able to get some funding from USAID. Judy and Wally liked the idea, and so that’s how it came to be. And I was pleased to move on to something else. Really my interests at this point were really in international women’s rights more so than domestic, because I felt like all the major hurdles had been conquered. We were working more clean-up operations at this point, I felt, in the United States, but here’s this raw, really desperate legal situation for women in existence in so many countries around the world. And I really saw this more as a pilot program than anything else. I hoped eventually – I still hope that other law school clinics will take on this kind of work

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and work with particular countries and similar kinds of matchings up to help, because countries around the globe face these problems.

Ogilvy: Now, you started this in the fall of '99.

Deller-Ross: 1998. Yeah, Wally gave me a semester off to plan it. So Johanna's first semester
1:11:00 at the clinic she and I were planning the curriculum, and for the seminar as well as the kind of legal work we would have the students do. And, as usually my want; I took on more than we should have. I was a little nervous about would I have enough work in the African projects for them, so – and of course I was familiar doing domestic violence work. I'd been -- that was the last, you know I'd gone through several eras of different kinds of work at the Sex Discrimination Clinic. The last leg had been domestic violence cases, so that first year I think we still did -- had each student do a domestic violence case in local D.C. Superior Court, because that was really the first issue that women around the globe began organizing on, and the international human rights law was very strong on it. So – and then we worked on [live] programs. That first semester we were working on legislation for Ghana and Uganda. Those were the only two countries we worked
1:12:00 with initially to pass -- to enact – well really we were drafting proposed legislation on domestic violence for them to submit to their parliaments. So, the projects that first semester really meshed nicely because everybody was working on domestic violence in one way or another. First, in the local court system, seeing how the

civil protection order system works in practice, and then drafting legislation for another country – mind you, having to learn that other country’s laws. And a prerequisite course for my clinical course is the International Comparative Law and the Rights of Women – so in that course they basically learn the law they need to know in terms of international comparative and regional human rights law.

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And the clinic focuses more on the individual law and the country and more in-depth exploration of the international human rights law than they could get in a survey course as well as a lot of comparative analysis: What are other countries around the globe doing on this issue? So it meshed really nicely. But eventually Johanna and I came to realize that it was just too much work for the students. Mind you, this is a six-credit course and so we eventually eliminated the domestic violence case and broadened out to a broader range of types of projects. One semester, we worked on honor killings with a focus on country reports from the Middle East and Latin America on the ways laws and court practices encouraged families or men to murder their wives, daughters – whatever – and then submitted that to the U.N. Special Rapporteur on Violence Against Women. We included Texas in that, and then I applied for the first grant I got from AID that was just for a one-year pilot grant, and then I applied for a three year grant. They expanded. They wanted me to expand to working with two new countries, so we added Tanzania and Nigeria and we added the human’s rights fact-finding in the spring, so the spring project became both one of writing a human’s right report and the association, associated legislation to go with that particular topic. And during

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spring break we took the students to the country in question and they interviewed really a host of people. Each team I think interviewed 50 people in the course of a week – you know, each team of two students – four students I guess. We had four students working on a given team and we split them up for interviewing into teams of two and two with one African lawyer and one Georgetown lawyer or American lawyer supervising them in that individual work on their interviewing. And it was such a mind-opening thing. You learn so much more about the legal system on the ground; you see because you are interviewing victims, prosecutors, judges, doctors, police – you know, this whole gamut of players on the particular problem you are working on. All these pieces come together so it is a marvelous, marvelous learning opportunity for the students.

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Ogilvy: How did that model develop?

Deller-Ross: Well, Johanna, not in a clinic setting, had done actual fact-finding trips where she went as a loan investigator and went to a country and stayed on a much longer basis – went there for two months or three months – and wrote up these human rights reports. So it was really a marriage of her image of this would be a wonderful project for a human rights clinic and my skepticism – oh, it's not really the law, you know, it's just a report. But she wrote a persuasive article on it which I read and I thought, "Well, okay, let's try it out." And she really wanted me to put it in the funding proposal, so I did. But because I am still very law-

1:16:00 focused, it's not real unless you are getting a law out of it. Well, I kept the legislative component in as part of the project, so it was sort of a marriage of our two visions. And so that is how that particular program came about. And also because of her experience we wrote in a summer internship for students where they would actually go back and work with the African women's rights NGOs for two and a half to three months and work on problems there.

[TAPE CHANGE]

Ogilvy: We were talking about you added components to the International Women's Rights Law Clinic, and you were talking last about the field work that you were doing with the students. Why don't you just kind of give me a flavor of that, some example of one of the projects and whatnot?

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Deller-Ross: Okay. Well, the most recent one we did, it sounds sort of frivolous; we called it the Queen Mother Project. But in Ghana, which is the country we did it with this last spring, they have maintained in their constitution a bit of the old traditional government. It's really not the traditional government because it's in the constitution, and it sets up new structures. It sets up a national house of chiefs and it sets up regional houses of chiefs. And basically this is all-male rule. Chiefs historically were legislators, judges, and the executive, and they're all – those branches of government are still there in the formal government. And there has long been opposition between the chiefs on the one hand and the political governments on the other hand because even Nkrumah was not very for the chiefs.

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There was this who-was-going-to-have-the-power kind of struggle. Anyway, they set up this national house of chiefs and regional house of chiefs, and in '92 they amended their constitution and said as part of the description of the duties of the national house of the chiefs, it said, "Chiefs shall include chiefs who are appropriately installed and queen mothers." So for the first time into the constitution came the notion that this historically separate rule which was queen mothers, also an idea of royalty, basically stemming from a long ago territorial conquest, that is how these royal families came into being, just as in England, I suppose. And the women's job, queen mothers' job was really to work with the women. The chiefs worked with the men, but if there is a dispute involving both the ultimate authority is the chief. So they have segregated responsibilities and the women's are much lesser. Well, so too, in the house of chiefs; basically they were given the responsibility still of making the judicial decision on who was the person who should be chief in these various regions. And that had economic ramifications because the person who was chief gets a cut of the royalties from the rental of tribal lands, which is the majority of the land, to spend as he likes. He can spend it on his people – that is the whole theory – or he can spend it on himself and send his kids to Oxford. So everybody is pretty much in agreement that some chiefs are great and others aren't. So that is one form of power they had. Another form they were given by the constitution was to get rid of customs, negative social customs that hurt people, and as well to try to codify customary law and come up with a common uniform law. So, since historically they had

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been judges, they were the ones who decreed customary law. And under customary law women essentially have no rights. Their husbands are always entitled; they have no choice. Their husband can always take on as many new wives as they'd like. They inherit nothing. I mean, as a surviving spouse basically they have no economic independence, no rights, no nothing. So, as you can imagine, there is a really strong constitutional argument, not to mention the international human rights arguments, that the chiefs should have been working on codifying customary law to eliminate all those negative customs and customary laws that were in existence that harm women. There was no political reason for them to do so. The national house of chiefs is composed of representatives from the regions and nobody wanted to step on another region's toes. And anyway, who benefits from all these laws as they are in place? Well, men. So they have absolutely no reason to go in and try to fix the situation up. And there is some discussion in modern-day Ghana about trying to re-vest these chiefs with some of their historical powers. So that is another troubling aspect. If they did codify, who would be the people who ran these systems? Well, it would be chiefs. So our project was really – one of the lawyers we worked with was working with queen mothers who were beginning to organize and to say we want in, we want a part of this structure. So our project was to come up with some kind of proposed amendment to the laws that would do that to comply with the constitutional amendment. So while we were there we were interviewing a fascinating range of people. We interviewed tons of queen mothers, tons of chiefs. We interviewed I

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think four supreme court justices, one of whom is a chief himself, and an extraordinarily progressive one. He, on his own – they all have these counsels that sit with them and decide – and he, on his own two years previously had basically integrated it full scale, fifty-fifty. He brought in women and increased the size, so no men lost their seats. There were a lot of grumblings, but he said, “Look, a lot of these women are really educated. We need them to deal with the government and we need you -- those of you who are illiterates because you know customary law.” So he was really skillful as a diplomat and had brought them on board. So he was a positive role model. And we also talked to them a lot about what the legal structure was, what were the legal arguments – pro and con, you know. Often the students had actually studied the relevant constitutional and statutory language more than the people we talked to had, so they got engaged in really interesting discussions about that. And we went into a village – that was another kind of person – and we interviewed villagers who had taken disputes to chiefs. And how had those disputes been resolved and had they ever taken disputes to queen mothers? And, you know, it wasn’t too difficult to find a typical case where a woman’s father had died and under customary law had left the property to her. He’d made the appropriate rituals and so forth. He had previously rented out the land in question to two nephews. They went to court afterwards because they were more knowledgeable and got deeds to the land. I guess they went first to the chief. Oh, then they went to the chief with the deeds and said it belongs to us. She went in and told how it really belonged to her, the

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customary rights had been done. The chief cut it down the middle: they got some, she got some. The court refused to stay out of it, so basically she was done in. So we were finding out on the ground how does it work. Somebody, another team, that was the woman – I was sitting in on that particular interview that a student conducted. Another interviewer that same day asked somebody, you know, “If you had a dispute with your husband, who would you take it to?” “Well, probably the chief.” “Why?” “Well, because he would listen to the chief.” Historically you were supposed to go to the queen mother – and a lot of times they do go to the queen mother. But who is he going to listen to? The chief, not the queen mother. So you got these sort of how-it-works-on-the-ground stories. We talked to – we interviewed lawyers in terms of some had practiced before the national house of chiefs because they have actual litigation and explicit rules and so forth on litigating these cases about who is chief, i.e., who has economic power. We interviewed a variety of human rights groups, we explored the question in the north. It seems they don’t have a history of queen mothers but there are now these market women who are very powerful and influential among the young women. Could they be brought in as the equivalent? Well, the Muslim north doesn’t like that idea. They have historically said no power at all to women, so it couldn’t be done – the northern regions would rebel – blah, blah, blah. So we were both finding out all the arguments and the very last day we got a copy of the regulations, which nobody knew existed – except for this one justice on the supreme court had a copy of it – that explicitly named – because under the

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constitution and under the preceding statutory law parliament had a right to name who would be on these regional houses of chiefs. And we were relying on that constitutional authorization to say, well parliament can do it again. Well, we find out here is the actual instrument that did that – we only got it on the last day.

Nobody in Ghana knew about its existence except for this one judge, and so we took it home and studied it closely. And, lo and behold, it named the explicit male chieftain structures for each – a number of them in each region. So there we had the explicit sex discrimination right there on the record. So you find out so much. You are interviewing an incredible broad range. I'm not giving you the full range of the types of people. We had one team working on domestic servitude, so they were interviewing schoolgirls and employment agencies and

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parents and the local ILO office and government officials. The team on domestic violence interviewed doctors and police officers, prosecutors, defense lawyers, judges, victims, human rights groups, you know, so you get to meet this incredible range of people, and you pull together such a much more sophisticated in-depth understanding of that legal system and how human rights law can be used to change it.

Ogilvy: These are JD students?

Deller-Ross: Yeah, yeah, they are all second- or third-year JD students. Yeah.

Ogilvy: How do you prepare them to do this type of interviewing, cross-culturally, status issues?

Deller-Ross: Well, we have simulations of interviewing in class. We videotape them. We
1:28:00 critique them. The teachers tend to role-play different kinds of interviews to try to raise the kinds of issues that we think will come up there. Having lived in Africa, I knew before we went that people would be really friendly. And of course we were working with Anglophone countries, so a lot of our people, the people we interviewed, were interviewed in English. We do have – this time we used Ghananian law students to go with us who could be both. Since they were law students, they knew law, and they could also translate for us because they knew all – among them they knew the various tribal languages. So when need be, which is generally when you are interviewing victims, you’ve got them to do the translating for you. And I give a lot of explicit direction too – both Johanna and I do – about things to watch out for. You know, we look for cultural sensitivity, but a lot of it
1:29:00 is just – some students hang back and they don’t really take initiative and you know they don’t have a good – really a sense of working with an answer and exploring the ramifications of the particular verbal response they get. No, they want to move on to their next question. I mean, you’ve experienced that all the time. So typical kind of interviewing problems that students tend to have I find they – because you teach the methodology of interviewing, they tend to focus not enough on the law. So after the first year’s experience when we spent a lot of

time on the ground finding out what the law was, I focused this time on saying, “You have to know that law cold before you go over. You are not over there to learn what the law is. We need to learn how to [operate in practice].” So I really drum into them, you know, you have to memorize the constitutional provisions, you have to know them cold, what they say, what the article is, so you can talk intelligently to people who are fairly highly placed. I mean this is a supreme court justice, this is a member of the parliament, this is a sophisticated human rights lawyer. You can’t just go in there and say, Well, tell me what the law says. You have to know it. So they have to learn to be sophisticated in the law. So I get a lot of -- I work with them a lot on that, and that’s one of the things we work on in simulations. And if they need more work, we do more simulations until I have a sense that they are doing better. Sometimes they tend to stay too global. They don’t get fact-detailed enough – I mean all the traditional things that clinical teachers work on. But generally because people are so friendly – they really are incredibly friendly in Africa and they are really, really happy to be interviewed – it is the first time that they have had a chance to tell their stories.

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You know, this particular woman I was telling you about before who had taken her problem to chief – she was an elderly woman and her name was Suzanne – and we tell them all that you can go on the record or not – it’s your choice – we’re happy to keep your identity confidential. We hadn’t done that before; we had always said we’ll keep it confidential. But this time for some reason – I guess I

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had seen a recent human rights report that didn't do that – at least with public officials – so we gave everybody that chance, and almost every single person we spoke to, I think there were only two exceptions, said we want to be on the record. Well, Suzanne, we gave her the same little spiel. “I want to be on the record. I want you to tell them what I said.” And we took a picture of her, and she was so proud, she had to get dressed appropriately in her Panya, which is the cloth they wrap around themselves, and all her relatives came in, and little kids were peeking, and it was a proud moment for her. So I found that too when I was doing domestic violence work, women, they're happy to talk about their situation – that's the first person maybe who had been interested in the details. They are also in the position of instructing you I think. This is something they know more than you do. They're telling you the facts. You are the learner. So that is kind of a pleasant role, even though the subject is so horrific. Nevertheless, I always felt like they enjoyed the interviews primarily. You know, sometimes it would bring things to the surface, but I didn't find them reticent.

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Ogilvy: What's next for your clinic? Where do you see the future?

Deller-Ross: Well, I think more the same. I think we've got a really winning structure now. It's going to be dependent on outside funding because what we are doing. My fundraising has enabled us to give lawyer money to the lawyers who work with us. And I really haven't talked about enough. We have telephone conference calls

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with them every other week, which Georgetown funds. And basically we move the students through a series of gradually more sophisticated conference calls and, again, trying to get them to master the material and take charge of the agenda rather than “tell me, tell me, tell me,” which is what they all want to do, especially because they are lawyers. So getting them to grab the concept of partnering with these people, because that is really what we are doing. We are doing calls, lawyering and partnering with other lawyers. We are not – we don’t have an explicit client in the sense of many clinics. We are more partners in social causes and they get the clients. They are the ones who actually bring the cases when we leave. They’re the ones who actually go before parliament and make the arguments. We are basically giving them the backup research and writing, the information that they don’t have access to. They don’t have the time, they don’t

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have the sophisticated resources that we have to come up with these packages. So we’re providing a resource that they are very lacking in. But they are the people who take it and run with it. They choose the projects with us, so it is very much a collaboration. You know a lot of people say, Oh, is this culturally imperialistic? No, these are women who want to do this work. You know, I always think that question reflects a very stereotypical vision of culture. It’s like the people who say that think everybody in that culture thinks a certain way. Well, no, the people in power may think a certain way, but guess what? The women who are not in power don’t think necessarily that way, even if you go down at the village level and ask them. They don’t. They have done surveys in Uganda when they were

doing the new constitution. They asked village women, What do you think about polygamy? Well, lo and behold, they didn't want polygamy. They thought a man should be limited to one wife. You ask people what the culture of Uganda says because it permits it – oh, they are all in favor of it. So it is a really unsophisticated view I think of culture that leads to that question. And here these women are the agents of change in their societies and they are very highly placed and they are very influential. The woman lawyer working with her aunt is on the supreme court. She practiced with her aunt first. She works with a lot of [donor] agencies, she has her own thriving law firm. Another lawyer went back to Uganda to be the lawyer to the vice president of the country. Another one is a general counsel for the labor department. They are really influential people. They make an enormous impact on their societies.

Ogilvy: Most of the partner lawyers have been LLM students at Georgetown or not?

Deller-Ross: Most of them – some exceptions. Now, Nigeria, they hadn't participated in our program, so there we are working with an NGO that International Human Rights Law Group connected us with because they have an African program. They have an African office in Nigeria and this – the human rights law group with Howard – we had a working arrangement with a group called WRAPA, Women's Rights Advancement and Protection Alternative, and they were involved in the coalition of 50 NGOs that was working on getting a new domestic violence bill through.

So we came in and provided some – last fall we did a brief in the case of the woman, Amina Lawile, who was sentenced to death by stoning. The press reports it as adultery but, in point of fact, it is an Islamic crime called *zina*. And *zina* has two translations – one is what we in the Western world would call adultery between a person who is married and someone that they are not married to. In *zina* that is one definition. But the other definition is if you have ever been married and you are now divorced and you have sex with, say, in Amina Lawal’s case asingle man – that’s called “adultery,” and you can be sentenced to death by stoning for it under these newly-enacted criminal laws that have just been instated in the northern states of Nigeria. And not only that, it is virtually impossible for the men to be found guilty, and extraordinarily easy for the women to be found guilty. Amina was arrested eight days after giving birth, the prosecution was launched the next day. She had no lawyer. The judge did not read her any rights, give her any guidance. He basically said, “Did you do it?” She said, “Yes, with [inaudible],” the man who had also been brought in. There was a short adjournment for a week or so, I can’t remember, because the prosecutor said they needed new evidence against him. They came in, they had no evidence against him. He swore on the Koran that he hadn’t done it, even though he admitted that he had been courting Amina. And under Islamic law if you swear on the Koran four times that you didn’t do it – home free, no questions asked. Well, the prosecutors entered into evidence “the baby.” And she was saying he was the father. She wasn’t trying to – how could she? – hide it. She – eight months – she

has just given birth, she has a new baby, she is not married – well, what is she going to say, this is a virgin birth? So she is caught. It is obvious that there is no way of getting out of it. Nobody tells her her rights, either under Islamic law or under national constitutional law. So she is sentenced to death by stoning. He gets off scot-free. One of the things we did in our brief – what we did was work with her lawyers there, and we prepared a brief to be filed ultimately, if it goes that far, in the Nigerian Supreme Court – which, again, you’ve got a good strong constitution and international human rights regimes. I’ve forgotten – I’ve lost track – there was one point I was going to make about the constitutional argument, but I can’t remember what it was right at this moment. Well, anyway, you can see how lopsided it is. We actually found some statistics from Iran which showed of all the executions by stoning, in terms of the ones involving sex crimes, they are almost entirely women. So it’s shocking sex discrimination, and it has gotten misreported as adultery in the Western press. It is really the crime of having a baby out of wedlock. So for this, they kill the mother.

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Ogilvy: You’d mentioned earlier that you would like to see other law schools trying to replicate this model.

Deller-Ross: Yeah, I really would.

Ogilvy: Is there a way of doing it without the fundraising that you’ve had to do, I guess?

Deller-Ross: Well, I think possibly it depends on whether you can get lawyers to work with you on the ground, whether they see a benefit in what you are doing. I think you can do it though. I mean the other thing I forgot to tell you about is that we exchanged drafts of papers by e-mail, so the lawyers there give a reaction to it and we do some feedback by e-mail and some feedback through these telephone conference calls. So obviously e-mail is no expense – you basically have to get computers for the folks on the ground and get them connected to the Internet, but that is no big deal anymore. Telephone conference calls – it is an expense, but basically it is seven-hour-long calls per teams. So it is seven huge phone bills, but they are not as big as you might think, and especially with the kind of phone service that law schools have access to. I went to AALS a year or two ago, there was a conference – I mean there was a section meeting for clinicians I think which focused on international law and what is happening in international law and clinics. And I remember one in Florida is working with, I think, possibly government agencies in South Africa. And the thrill they get is if their work is good enough the agency takes it and runs with it. So I think there might be the possibility of working with government agencies. You know, they have law reform commissions in these countries which are the ones who are charged with drafting legislation. They are probably typically underfunded, understaffed. They do have experts in drafting, so you give them good ideas they can take it and run with it if they want to. So I think that might be another mechanism. More law schools are beginning to experiment. Fordham took some students to Ghana to work on intestate

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succession law, which Ghana had a pretty good law in place. In fact, for a Tanzanian project we had where we were attacking both the Islamic system which gives women a tiny portion – you know, if he has four wives, which is permitted, each wife gets one thirty-second of the estate, and he gets meanwhile a quarter of each woman’s estate. Under customary law the woman gets nothing. So we were coming up with a uniform and intestate succession law, and they drew in great part on Ghana’s model. We bettered it in part by taking the research that Fordham had done and showing what some of the problems were in action. I mean, we also had other ideas that went into it, but that was an interesting example of working off another clinic’s experience and the clinical profs had written up that project and afterward had it published. And that is how we’d come to see it. In fact, one of those profs had been a fellow in the Women’s Law and Public Policy Fellowship Program – Tracy Higgins I think her name is – I’ve sort of forgotten her last name. So I think you know it involves some experimenting. Maybe if a consortium of law schools went to a big funder and said we all want to do this we’d get funding, because from the perspective of U.S. funders the amount that would help these organizations isn’t that great – you know, it is a small amount of money. They don’t have lawyers’ fees on scales – you know, \$25 an hour is not a magnificent rate in terms of local bar, but it is enough so people are willing to do the work – and that is what the rate is under the AID contract – so it is giving them some lawyer time. After the first year we found out that it wasn’t enough to provide this written project. The groups we were working with said, “Hey, we

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need to go out and have public education sessions. We need to work with NGOs and government in terms of fine-tuning these projects, selling it, getting their input, changing it, and so forth.” So in this last grant proposal to USAID I asked for and got money for them to hold those kinds of meetings. So with that money they can now go out and hold public education sessions. They can have lobbying lunches with members of parliament who are open to their ideas. They can have those meetings. And in Tanzania last summer, after we finished our project, they in fact took the proposed uniform intestate succession law which we came up with which had government support, because the law reform commission had come out with a report in favor of doing this in 1995. But it didn’t have a proposed law. So we were the first ones to come up with an actual proposed law and they use – over the summer the NGOs and the activist NGOs and the activist government lawyers met together, fine-tuned it and basically presented it. So it is going forward. And that’s how I think the vision should work. So more fundraising maybe, but maybe you could talk big donors into doing it for several – a consortium of law schools that might be interested.

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Ogilvy: So, I think I have run out of questions. Is there anything else we should talk about?

Deller-Ross: No, no, it was a lot of fun.

Ogilvy: Okay, thank you very much.

Transcribed by Donna Snyder