

Keynote Address of
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U.S. Equal Employment Opportunity Commission
to the
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Thank you very much for the invitation to speak tonight and thank you, Kimberly, for the kind introduction. I want to thank Latham and Watkins for hosting tonight's event, and I want to especially thank the lawyers and law firms who've collaborated with the Committee over the years. I'm honored to be among some very respected civil rights colleagues and long time "trouble makers" Pamela Price, John Burris and Peter Cohn. It's great to be here.

I'm especially honored to give remarks more than 50 years after President John Kennedy called for lawyers to be involved in the civil rights struggles of his day, and which ultimately led to the establishment of the Lawyers Committee for Civil Rights under Law. This week we remember President Kennedy's untimely death and its shocking impact on the nation. For many in the civil rights community in 1963 after the bombing of the 16th Street Baptist Church in Birmingham and the March on Washington, Kennedy's assassination was taken as a possible setback in the quest for a civil rights act. But the movement's persistence, endless demonstrations and moral persuasion successfully led President Johnson to also call for civil rights legislation which led to the passage and signing of the Civil Rights of 1964.

Over the years I've collaborated with the Lawyers Committee as a staff attorney with the Asian Law Caucus and as the Regional Attorney for the EEOC. Along with Eva Paterson and a host of other public interest groups, we represented minority and women owned businesses to defend the City's affirmative action plan to distribute a small percentage of city contracts to underrepresented groups against the white contractors who wanted it all. My then fellow Asian Law Caucus staff attorney, Ed Lee – now the mayor, worked with Eva, Shauna Marshall and others to challenge the San Francisco Fire Department to move from the 1950's to the 1980's overnight, and through those successful efforts they increased the number of minorities and women in the Fire Department which ultimately led to the appointment of the first African-American Chief, Bob Demmons, and the first female Chief, Joanne Hayes White.

I also had the privilege to work with the Immigrant and Refugee Rights Program – in particular Robert Rubin, Ignatius Bau, Sara Campos and Dave Rorick. We held political asylum trainings, challenged the dreaded Proposition 187 which was a forerunner to Arizona's immigration law, and challenged immigration raids. With private practitioner Terry Helbush of Simmons & Ungar and other nonprofit organizations we drafted the legal memorandum for Congress that led to the passage of the "self-petitioning" provisions of the Violence Against Women Act, which allow

battered spouses married to U.S. citizens or lawful residents to obtain permanent residency without relying on the batterer to start the process. Over 60,000 women and children have benefited from those provisions, by leaving abusive situations and obtaining legal residency. And just a few years ago, the EEOC San Francisco office teamed up with the LCCR and private practitioner David Nied to successfully represent Abdellah Haji, an Egyptian Muslim who was the *maitre de* at Albion River Inn on the Mendocino coast and who was terminated after he protested the abusive, racist and demeaning statements of a customer towards him.

Lawyers play a critical role in ensuring that civil rights laws are enforced. But there is some doubt whether lawyers in a rapidly changing legal environment can still play that role. Fifty years ago there were no such creatures as law firms with thousands and thousands of lawyers, no mega multi-national law firms with partners who barely know each other, no big firms publicizing their revenues per partner, and certainly there weren't thousands of lawyers leaving school with such staggering debts...you know "a mortgage without a house". The fierce competition for business, combined with the unprecedented massive layoffs at law firms and in government, and *the financial fragility of public interest organizations* have come to the fore to change the picture of legal practice.

Yet, despite all this, as lawyers we have the luxury of viewing life from a vantage point of privilege. We have education and prestige, get kudos, and are in an elite group. But there is a wide, deep cultural gap from that vantage point and to what actually happens on the ground. Our challenge in every generation and moment is to bridge that gap, and so tonight I want to "give voice" to the many who don't always get invited to lawyer gatherings in downtown high rises. I want to "give voice" to those who need your help.

So while I speak to you today as a government official, I also speak as a civil rights attorney whose clients have by and large been Asian and Latino immigrants - many of whom were undocumented, scared and vulnerable but who picked the food for our tables, served us our meals, built our homes, cleaned the hotels and our offices, and took care of our children, our parents and our grandparents. Prior to joining the EEOC, I litigated civil rights cases against the Immigration and Naturalization Service and other government agencies and represented persecuted political asylum seekers, aliens in deportation proceedings, and scores of battered women who were threatened with deportation by abusive U.S. citizen husbands.

I speak as a "homeboy", the son of immigrants from the Philippines - a father who toiled on the sugar plantations of Hawaii with no labor rights and but became a unionized janitor in San Francisco, and a mother who immigrated in 1951 and was stuck in a minimum wage job with forced, but unpaid overtime for over 20 years.

I speak as an EEOC Regional Attorney whose office has had to deal with many workers from the Philippines, Bangladesh, Nepal and China in the Commonwealth of the

Northern Mariana Islands, Africans and African-Americans in Hawaii and now thousands of Latinos and others in Alaska, the Pacific Northwest and California.

In these capacities I have seen the many aspects of the human condition: the pride and desperation of workers and their families, the power and sometimes arrogance of corporations, the positive and negative roles of government, the exercised broad discretion of judges, and the tragedies and hardships created by discrimination and abuse. *But not all stories must have bad endings.* They can end in victory and justice when people like you step forward to answer those calls for help.

In the richest nation ever there have always been people who've been abused, who live in poverty, who live in fear of violence, who lack housing, who want to vote but can't exercise the franchise, who want to enter the mainstream after they've been marginalized or incarcerated, who want a job, who want a job free of discrimination and harassment, who want to be respected for who they are and not stereotyped, and above all, who want to live with dignity and with the hope of opportunity. Now all of us have had bad days at work, but really none of that compares with the Bay Area residents who have "bad days" *every day* because there is no heat, no roof, no job, no end to abuse, no green card, no freedom in their homelands, and no sense of where the next meal is coming from. Some remain literally divided by the U.S. Mexican border or the Pacific Ocean from their families because of historically racist immigration laws and suffer the emotional strain of years if not decades of separation. And while the Dow Jones is steadily going higher and higher, the economic divide is growing wider and wider, and it is so evident here in the Bay Area and especially in San Francisco as working class families and neighborhoods face eviction and the technology upheaval that leaves them behind.

For employees of color, many join the workforce already with a suspicion of authority because of personal or family experiences, racial profiling, racial harassment, and police misconduct. If they join a company and see no one who looks like them especially at the higher ranks, their antennae go way up. Not surprisingly, after getting the company orientation packet, some will seek out other black employees to get the "411" on what's really going on. They do it because that's how they've learned to survive not just in the workplace but in other American settings. They not only want to know the ropes, the boundaries and the opportunities, but also which supervisor or co-worker will make it hard for them because they're black. And who can blame them?

Despite increasing talk of diversity, charges of race discrimination have increased from 34% to 37% of EEOC charges from FY2006 to FY2012. The main form of discrimination continues to be retaliation followed by terminations based on race. More disturbing is that the number of overall charges received has jumped from 76,000 in 2006 nearly 100,000 in 2011. So that's more black workers, not less, who perceive themselves as victims of discrimination. And so, while employment discrimination has been illegal for nearly 50 years, our nation's legacy of nearly 200 years of legalized racism continues to drag down any perception of fairness despite the best efforts of some companies.

More than 50 years after President Kennedy called for lawyers to join the civil rights movement, we still have cases of racial profiling by police departments and individuals, hate crimes, and large racial disparities in health, education and spending. The polarization from the recent acquittal of “heat-packing” George Zimmerman in the shooting death of 17 year old Trayvon Martin and other similar cases are painful reminders that race continues to play a significant role in America’s social relations. For African-Americans, the election of a Black President hasn’t necessarily translated into more “safe spaces” so to speak in the social interaction we call American culture. Consequently, we must maintain our vigilance but also draw in others who believe that our nation can do better.

But while legal civil rights struggles in the United States are difficult, to give myself perspective I often time step back to March 2010 when I spoke at an anti-trafficking conference in Kunming, China. After explaining the origins and role of the EEOC and the cases where we have recovered significant amounts of money for victims of sexual harassment including rape, one lawyer from a non-governmental organization asked, “What a minute. Let me get this straight. You’re a lawyer for the United States government? To which I replied “Yes”. “And you sue companies for sexual harassment and rape and can recover hundreds of thousands if not millions of dollars for victims?” “Yes”, I replied. “And all the money goes to the victims?” “Yes”, I said. Then she suddenly turned to the government officials and said, “Well, why can’t we have that?”

And so we in the United States are very fortunate to have laws that prohibit such terrible behavior and that provide meaningful remedies. Yet, those meaningful laws are *meaningless* if victims can’t access them, are deterred from pursuing their rights, or simply have no lawyers to represent them.

And that’s where you come in. Lawyers particularly those from the private sector have played a critical role in making sure that our citizens and residents can access justice. Since its founding, the Lawyers Committee has relied on the private bar to be co-counsel in some very fierce and long civil rights battles, to provide pro bono representation for individuals and to raise funds so that many more can be served directly by the staff. But at a time when the disparity in inequality and the disparity in income grow and grow, there is a perception that those in position to help might not have the heart, the will nor the commitment to aid those on the other side of the economic divide. And, in a city sometimes polarized by *left v. right, tenants v. the developers, or workers v. the downtown businesses* dynamics that perception sometimes gets affirmed.

And, I admit, that I have some friends who remain wary about whether corporate lawyers, in-house lawyers, or outside counsel who bill at \$600 – 1000 an hour and that represent big corporations that have been found to abuse the rights of consumers and employees can be committed to civil rights. I know that’s not “PC” to say here but that perception is there and consequently, *that is part of our reality* as lawyers who want our civil rights laws to have life. Heck, in 1995 when I just joined the government and was about to receive an award from the National Lawyers Guild – not exactly the American

Bar Association – for my immigrant rights work at the Asian Law Caucus, one legal services lawyer asked me, “So how’s it like working for the enemy?”

I am reminded about the first speech that Nelson Mandela delivered upon his release from prison after 27 years of incarceration at the hands of the Nationalist Party. Without any bitterness or anger in his voice, Mandela began his remarks by thanking the millions in South Africa and around the world who campaigned for his release. He thanked the African National Congress, ANC President Oliver Tambo, his former law partner after whom my son is named, the South African-Communist Party and its General Secretary Joe Slovo who Mandela referred to as “one of the finest patriots”, the United Democratic Front, the National Union of South African Students, the religious communities, tribal leaders and the youth movements. Mandela paid tribute to the mothers, wives and sisters of the struggle stating that apartheid had inflicted more pain on them than on anyone else. He even stated that F.W. De Klerk, the head of the apartheid backing Nationalist Party had taken steps to end apartheid and was a man of integrity. Mandela concluded by calling on all sectors which included the business sector, engineers, lawyers, doctors, teachers, whites and blacks, to seize the moment and continue the path to dismantle apartheid and create a new nation. Mandela realized that you must assess the present day situations and the mountains yet to climb by seeing the broad spectrum of people that can and must play a part in making a society change from apartheid to respect, from poverty to prosperity, and from imprisonment to freedom.

Mandela’s insights in 1990 are completely appropriate to the United States in 2013. The civil rights laws and the future of a free society that the civil rights movement fought for can’t be a reality without leadership and activism from all sectors and that includes you and me. I represent the government – the very entity that I used to sue with my friends in the public interest bar on behalf of immigrants – because I believe, as the civil rights movement demanded, that government can and must play a pivotal role in enforcing our civil rights laws and protecting individuals despite the perceived negative roles government sometimes plays. In the recent *Frontline/PBS* documentary “Rape in the Fields”, the producers vividly pointed out the critical role that my office and other EEOC offices have played in trying to stop the rapes of female farm workers and in recovering millions of dollars in court for these victims. And so, I would now say to the lawyer who asked me “how’s it like working for the enemy?”, that while the job has its ups and downs, EEOC staff and I have made a difference in the lives of victims of egregious sexual assault in the workplace by enforcing the laws that the civil rights movement fought for.

Likewise, many law firms – big and small - in the Bay Area have devoted thousands of hours and resources to make Nelson Mandela’s, Martin Luther King, Jr.’s and John Kennedy’s dreams a reality. So, if you are that corporate lawyer, that middle or small firm lawyer, partner or associate, a public servant, a contract attorney or that solo practitioner there is always a role for you in making civil rights a reality. It may not always be a big federal court case raising constitutional questions but sometimes it is. But more often it means helping someone seeking political asylum, helping someone flee an abusive situation at home or work, helping immigrants unite with their loved ones or

keeping them from being separated, helping minority businesses struggling to get a foothold, helping tenants facing eviction, helping victims of employment discrimination, and helping the many more who seek help and who may be going to sleep tonight hungry, crying, cold, wet, without shelter or wracked with depression and mental illness and just asking for some calm in their lives. You can be that lifeline.

The Lawyers Committee is an organization that can channel your energies and optimism. Through its leadership many lawyers just like you have upheld some of the finest traditions of our profession to help those in need. I am always moved when I read stories about lawyers who volunteer hundreds of hours to help those with few resources or alternatives. Those lawyers don't have to do it, but they want to and it gives them value, satisfaction and reward, and it affirms their humanity. Above all, they make a difference, they improve lives and they help make justice and dignity a reality.

Thank you so much for all that you do and for stepping forward! Keep up the good work! Thank you.