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BEING A DEAN IS A DRAG

... BUT NOT FOR THE REASONS YOU MIGHT EXPECT

Kellye Y. Testy*

I love my job of being a law school dean. Given the title of this essay, I thought it best to make that clear right up front. Because I have now been in this role a while, I hear from a lot of people who are considering whether to serve as a dean.¹ There is a lot to consider in answering this question; although I love this job, it is certainly not for everyone. The demands of this 40-mile-wide-and-inch deep job are immense, bear almost no resemblance to the job of law professor that most candidates previously hold, and usually mean that you get credit only when things go amiss rather than well. What's not to love?

For me, the joys of being a law school dean start with the opportunity to help an institution become more than a sum of its parts: to be a catalyst for its many constituents together advancing the institution to greater levels of excellence and accomplishment. I love helping a school build and sustain momentum to identify and achieve its mission and goals and then seeing that mission make a difference in the lives of its graduates and in the contributions they make to a more just world. Further, I believe deeply in the power of legal education to train our world's most capable problem-solvers and in the role of lawyers in defending liberty and advancing

* Dean and James W. Mifflin University Professor, University of Washington School of Law. This essay is in honor of the men and women who have stepped up to leadership roles knowing that our world still has a long way to go with regard to formal and substantive equality based on gender and sexuality.

1. I helped found a conference to encourage diversity in law school leadership, which now takes place in Seattle every other year, and have recently helped AALS launch a new educational program for educating law school leaders, including deans and associate deans. Further, for several years I also have served on the ABA Section of Legal Education Committee that plans and executes a workshop for new law school deans each summer. See *Kellye Y. Testy: Biography*, UNIV. OF WASH., <http://www.law.washington.edu/directory/Profile.aspx?ID=313&vw=bio> (last visited Aug. 27, 2013).

justice. The opportunity to be the chief cheerleader for a law school is thus a great privilege for me.

With most of the people I talk with about whether they should serve as a law school dean, I can enthusiastically share these joys while also giving them a realistic picture of the challenges of serving as dean. For instance, many new deans fear that the dean's role in raising funds for the school will be unpleasant. Most of us, however, find this one of the parts of the job that is the most enjoyable and rewarding. Thus, while being a dean may be a drag, it is not for the reasons one might expect. Rather, being a dean may be a drag only in the sense of requiring (more for some persons than others) a measure of gender performativity. Because of the complex nexus between gender and sexuality,² this aspect of being a dean is one that merits discussion when I get asked by potential deans whether their status as gay or lesbian persons is likely to be a negative factor in their selection as a dean or in their ability to do the job well.

Before I explore this concept of drag more fully,³ let me first note that it is regrettable that gay and lesbian candidates must still be asking these "will it matter" questions in this second decade of the Twenty-First Century. Like many institutions in our society, law schools are very much in need of outstanding leaders; it is thus damaging to individuals, institutions, and the rule of law that bias and discrimination on the basis of personal identity characteristics⁴ might impede excellent leaders from taking up those posts. Regrettable as it may be, this question is still a relevant one, although more so in some cities and institutions than in others. Law schools, after all, are part of a broader culture that is very much in flux on the issue of gay and lesbian equality.⁵ While in a few cities, being gay or lesbian has almost achieved the privilege of being unremarkable, in many others it is still a form of otherness that is at worst a beacon for violence and hostile discrimination and at best a lingering source of social and

2. See, e.g., Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity* (1990); see Diane Richardson, *Patterned Fluidities: (Re)Imagining the Relationship Between Gender and Sexuality*, 41 *SOCIOLOGY* 457, 458-59 (2007).

3. While the term drag refers most commonly to men performing female gender identity roles, as in "drag queen" or "drag shows," it also means the performance of any gender identity that does not align with biological sex. See *Portrait of a Drag Queen: Next Magazine Survey Provides Insight Into the Personal Lives of Drag Queens*, HUFFINGTON POST (Nov. 15, 2012), http://www.huffingtonpost.com/2012/11/15/drag-queens-survey-next-magazinepersonal_n_2138085.html.

4. Including race and ethnicity, sex, gender, sexuality, age, disability and other identity characteristics.

5. See *Law School LGBT Survey Results*, LSAC.ORG, <http://www.lsac.org/jd/diversity/lgbt-chart.asp> (last visited July 29, 2013).

professional unease. One of the first pieces of advice I give is thus that the decanal candidate should seek to find a city and an institution⁶ that has as much formal and substantive equality for gays and lesbians as they can find.

That said; there is still the question of whether even in such a progressive city and institution a gay or lesbian dean can thrive personally and professionally. My answer to this is a qualified yes. The qualification, however, often relates as much to gender identity as it does to sexuality, and in some ways is much more complex. And this is why I often say that being a dean may be a “drag” for some persons. In common parlance, being in drag means to perform a gender identity other than one’s biological sex: men portraying themselves as women or women portraying themselves as men.⁷ For some decanal candidates, getting selected and succeeding as a dean may involve elements of drag with regard to their gender identity – an issue related to but separable from the issue of being more or less “closeted” about one’s sexuality in serving as a dean or other institutional leader.⁸

The gender performativity of being a dean is complex and different for women than for men.⁹ For men, the harshest social penalty is reserved for

6. Candidates should be careful not to assume that schools in the same city will be the same with regard to gay and lesbian equality. Even in a progressive city, a school that is religiously based may not welcome a gay or lesbian person as its dean, or may insist upon that person remaining closeted in the decanal role. As an example, while I felt very supported personally by university leadership in my first deanship, which was at a Jesuit Catholic university, I was told explicitly that I could not be a public advocate for gay and lesbian rights while serving as dean due to the difficulty in distinguishing the dean’s voice from the institution’s voice and the conflict that would pose with its Catholic mission and values. While I regretted this state of affairs, I also understood it. It is true that when the dean speaks it is with less his or her own voice and more with that of the institutional. That is why understanding the institution’s mission and goals is so important; a dean will be most professionally effective and personally fulfilled when his or her values are aligned with those of the institution.

7. See Kathryn Abrams, *Cross-Dress in the Master’s Clothes*, 109 YALE L.J. 745, 747 n. 13 (2000).

8. Whether to be “out” as a GLBT person as a leader depends to a large degree on the nature of the institution and city as noted earlier. That is not to say that this is a simple “yes” or “no” decision. Rather, it is a complex and constantly negotiated and calibrated set of micro and macro decisions. I have chosen to focus this essay on gender rather than on sexuality per se, leaving that topic for another day.

9. Even more complex and difficult issues are raised for trans persons, although those issues support the main point of this essay that gender performativity is often at the forefront of professional identity roles. For outstanding work on transgender issues, see, e.g., Dean Spade, *Be Professional!*, 33 HARV. J. L. & GENDER 71 (2010). Likewise, due to intersecting issues of race, gender, sexuality and class, issues of professional identity in leadership are made further complex when race and class are considered in addition to issues of gender and sexuality. This broader subject is addressed in my book in progress. See Kellye Y. Testy, *The Complexities of Leadership* (forthcoming).

not being manly enough. Put differently, given gender inequality, femininity is penalized whether it appears in a biological male or female. As a result, I have seen many very able male leaders have difficulty being selected as a dean when their gender identity bends toward the feminine, whether they are gay or straight. Not surprisingly, however, once a man is known to not be gay his femininity is often embraced positively as an indication that he is capable of exhibiting leadership traits more commonly associated with women – including being a good listener, being empathetic, being collaborative, and being caring. For men whose sexuality remains a question, or who are known to be gay, however, any femininity often remains negative, raising, for instance, concerns that they might not be able to make tough decisions.

For women, there is increased complexity because women must steer between being either too feminine or not feminine enough. Due to lingering and persistent bias against women in the workplace, there are still fewer female law schools deans than there are males.¹⁰ Moreover, it is still likely that if you asked most people to conjure an image of a law school dean in their heads that it would not be a female image that would first emerge. As a result, there is some expectation – of course unstated – that a dean not be “too much of a girl.” I saw this vividly with a woman who was a recent dean who had a very feminine and stylish dress and demeanor. She was not taken as seriously as she should have been given the quality of her ideas and the courage of her leadership. While some of what she faced may have been due to the national rank of the institution she led (make no mistake, this is a hierarchal business), I remain sure that a significant measure of the lack of respect she commanded was gender based. Some women may have to do a bit of drag in order to be perceived as more

10. *Women in Law in the U.S.*, KNOWLEDGE CENTER (March 11, 2013), <http://www.catalyst.org/knowledge/women-law-us>. It is interesting to me that the number of women deans seems to be on the rise right at the time that being a law school dean is perhaps at its most challenging. This convergence of progress amid tumult makes me consider whether we may be seeing another application of the late Professor Derrick Bell’s convergence theory. See Stephen M. Feldman, *Do the Right Thing: Understanding the Interest-Convergence Thesis*, 106 NW. U. L. REV. 248, 248 (2011), available at <http://www.law.northwestern.edu/lawreview/colloquy/2012/4/LRColl2012n4Feldman.pdf>. Interest-convergence theory states that minority groups only achieve political or legal gains when their interests align the dominant group’s interests. *Id.* In other words, minority groups only progress when the dominant group sees a benefit from such progress. Moreover, any benefits conferred on the minority group are merely incidental to the dominant group’s true, self-interested motivations. See Derrick A. Bell, Jr., *Brown v. Board of Education and the Interest-Convergence Dilemma*, 93 HARV. L. REV. 518, 524 (1980). It is possible that we are in a time when the hardships and risks of stepping up for law school leadership make the increases in the numbers of women and minorities in those ranks less about equality than might first appear.

masculine than they may otherwise choose to be in order to succeed as a dean. I am also convinced that it would not matter if a “too feminine” woman were gay or straight; in this case, gender trumps sexuality because the gender is so strong as to render the sexuality issue invisible. People usually conflate femininity with heterosexuality.

On the other hand, neither can women deans be “too much of a guy.” And this is where some women, both who are lesbian and who are not, may have to do a bit of reverse drag and be more feminine in dress and appearance than they might otherwise choose to be. What is interesting on this point is that the social/professional penalty for a lesbian woman not “going in drag” may be harsher than it would be for a heterosexual woman, especially where that woman is visibly heterosexual (usually meaning that she has a husband or male partner in tow). I have seen several examples of masculine appearing women who are accepted once it is clear that they are married or otherwise partnered with a male. On the other hand, masculinity in a woman known or suspected to be lesbian is less accepted. In both directions, in this case, sexuality trumps gender: a heterosexual woman’s masculine appearance is accepted in the professional realm while a lesbian woman’s masculine appearance is penalized.

For both men and women, gender is salient in gaining and succeeding in leadership roles. While gender’s persistence presents complexities for leaders and we rightly bemoan the lingering effects of bias, it should come as no surprise that our society’s deepest conflicts are extant in the field of leadership. Leadership is at heart about vision and relationship building. As we choose our leaders, we choose the future for our institutions and our society. Once in place, our leaders then toil in a complex web of relationships, all of which are moored to both the promise and the ills of our world. May we continue to heal; and in the meanwhile, do what is necessary to put the right leaders in the right places—even if it means helping each other learn to walk in heels.

