

# IN HONOR OF PROFESSOR MYRNA RAEDER

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Isabelle R. Gunning\*

Brilliant scholar. Tireless advocate. Supportive colleague. Champion for gender equity and criminal justice reform. All these accolades are true, though inadequate, in describing Professor Myrna Raeder, our respected friend and legal scholar who we lost all too soon. For me, personally, the additional word that comes to mind when I think of Myrna is humble. There are few people in the legal academy—or anywhere really—who are as brilliant and creative as Myrna was and yet also carry themselves in the humble and self-effacing way that she did. Myrna was not one to talk about her own importance; she talked about the importance of her work. The incarcerated women and their children and families—their stories were important to her. And I, like so many of the authors in this In Memorium issue and well beyond, admired Myrna especially because of her amazing ability to combine intellectual and scholarly rigor with a passion and activism for justice.

I met Myrna when I joined the faculty of Southwestern Law School over twenty years ago. I was fortunate to know Myrna personally and, as a sister Evidence professor, I have fond memories of discussing evidence cases, questions and exams. And the word “humble” comes to mind again—Myrna was a noted evidence scholar but she listened and engaged everyone with no airs of superiority. She enjoyed exchanging ideas with all of us. My sweetest memories are personal. We were both mothers and her two sons, Tom and Mike, were about the same age as my own daughter. We shared our hopes and aspirations for our children. Some people can only share the good news of their children’s accomplishments. I appreciated Myrna because she was willing to share both the activities that gave her bragging rights and those that caused her worry. We could—and did—share the fears that mothers have, as well as our dreams. And we were fortunate to share the joy of seeing our dreams for our kids manifest as all three are now grown and successful.

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\* Professor of Law, Southwestern Law School.

Myrna's impact was great on those of us who were fortunate enough to be her daily colleagues, but her impact was also felt by many others. Her magnificent career as a lawyer, law professor, legal scholar and justice advocate started with her education at Hunter College for her undergraduate degree followed by a law degree from New York University and an LL.M. in Trial Advocacy from Georgetown University. She was a member of the bar in California and New York as well as the District of Columbia. She taught and co-directed the Criminal Law Clinical Program at the University of San Francisco Law School and practiced as a litigator in the law firm of O'Melveny & Myers before joining the Southwestern Law faculty. Surely, Myrna had a positive impact on her firm's clients as a litigator, but that was just the beginning.

As an incisive teacher, Myrna has informed and inspired not just her students at USF and at Southwestern, but also judges when she taught at the National Judicial College. Additionally, she trained practicing lawyers—especially prosecutors and criminal defense counsel—in her work with the American Bar Association. She informed and taught Congresspeople and government decision makers every time she advocated for and testified about her work on domestic violence, female offenders and the children of incarcerated women, whether she was at the White House, with congressional staffers or at governmentally sponsored conferences.

Myrna was a prodigious scholar. She wrote textbooks on evidence and chapters for American Bar Association reports on the State of Criminal Justice.<sup>1</sup> She wrote law review articles too numerous to count. She wrote about women—primarily women in the criminal justice system.<sup>2</sup> She is most noted for her work on women prisoners and, in particular, mothers as prisoners, but she also wrote about women in legal education.<sup>3</sup> Additionally, Myrna wrote about evidence.<sup>4</sup> Her interests and brilliant ideas covered

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1. See, e.g., PAUL F. ROTHSTEIN, MYRNA S. RAEDER & DAVID CRUMP, EVIDENCE: CASES MATERIALS AND PROBLEMS (4th ed. 2013); ABA CRIMINAL JUSTICE SECTION, THE STATE OF CRIMINAL JUSTICE (Myrna S. Raeder ed., 2012).

2. See, e.g., Myrna S. Raeder, *Gender-Related Issues in a Post-Booker Federal Guidelines World*, 37 MCGEORGE L. REV. 691 (2006); Myrna S. Raeder, *Remember the Ladies and the Children Too: Crawford's Impact on Domestic Violence and Child Abuse Cases*, 71 BROOK. L. REV. 311 (2005).

3. See, e.g., Myrna S. Raeder, *Reflections About Who We Were When Joining Conveyed a Message*, 80 UMKC L. REV. 703 (2012).

4. See, e.g., Myrna S. Raeder, *Finding the Proper Balance in Hearsay Policy: The Uniform Rules Attempt to Stem the Hearsay Tide in Criminal Cases Without Prohibiting All Nontraditional Hearsay*, 54 OKLA. L. REV. 631 (2001).

forensic science and DNA evidence as well as wrongful convictions.<sup>5</sup> She wrote on batterers and domestic violence victims.<sup>6</sup> And because Myrna was who she was, she wrote in ways that championed justice so that the system would be fair to both women and children when they are victims, as well as to criminal defendants—both male and female.

Myrna was an advocate and activist. She was especially active in Women Lawyers of Los Angeles, the National Association of Women Lawyers and the Criminal Justice Section of the American Bar Association. Myrna was quick to compliment the brilliance of all the lawyers and judges with whom she worked, and just as quick to encourage them to be as passionate and as activist as they could be on those issues she was so passionate about—women who are in abusive situations, women prisoners and the children of women prisoners.

Myrna had been awarded all the honors due to someone so involved in scholarship and service. I could not list them all, but a few of the highlights include: the American Bar Association's 2002 Margaret Brent Women Lawyers of Achievement Award, the 2003 Women Lawyers of Los Angeles Ernestine Stahlhut Award, induction into the Hunter College Hall of Fame and the American Bar Association's Criminal Justice Section Charles R. English Award.

Given the remarkable life of genius and service that Myrna led, it is only fitting that her law school would host a symposium in her memory, entitled *Locking Up Females, Failing to Protect Them, and Punishing Their Children & Families: Can a Human Rights Approach Eliminate Gender Bias that is Currently Treated as Gender Neutral?* More than twenty-five scholars and activists gathered to honor Myrna and to discuss how their current work rests on the solid foundation of Myrna's brilliance and inspiration.

A range of scholarly work was presented at this symposium in Myrna's memory—some of which is published in this In Memoriam issue. Included is the work of new scholars who never knew Myrna personally. For example, Rachel VanLandingham presented and discussed using the shift in focus in sexual assault cases from forcible resistance to affirmative agreement and importing it into the military context—with all the intellectual and practical

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5. See, e.g., Myrna S. Raeder, *See No Evil: Wrongful Convictions and the Prosecutorial Ethics of Offering Testimony by Jailhouse Informants and Dishonest Experts*, 76 *FORDHAM L. REV.* 1413 (2007).

6. See, e.g., Myrna S. Raeder, *The Better Way: The Role of Batterers' Profiles and Expert "Social Framework" Background in Cases Implicating Domestic Violence*, 68 *U. COLO. L. REV.* 147 (1997).

challenges that the move presents.<sup>7</sup> Another new scholar impacted by Myrna who presented is I. Bennet Capers, who explored the deeper meanings behind the term “violence against women” to reveal a range of abusive practices—both physical and psychological—against a larger group of vulnerable people beyond women.<sup>8</sup>

There were also seasoned scholars who counted Myrna as a friend and colleague. Marina Angel presented her work, which explores the need to reform evidentiary codes to allow the admissibility of prior acts of abuse to be admitted in both the prosecution of batterers, as well as the prosecution of women who fight back and kill their batterers in self-defense.<sup>9</sup> Another example is Paul Rothstein, one of Myrna’s co-authors on her Evidence text book, whose work explores the difficulty in determining the “primary purpose” of statements made by victims of sexual assault and child abuse for purposes of their admissibility, or non-admissibility, under the Confrontation Clause.<sup>10</sup> We are fortunate to have both Professor Angel and Professor Rothstein’s works published in this In Memorium issue.<sup>11</sup>

And because this was a symposium in honor of Myrna, there were contributors who are not legal scholars. For example, there was Dr. Angela Irvine, the Director of Research for the National Council on Crime and Delinquency, whose presentation focused on empirical evidence showing the dramatic differences in the ways the police treat LGBT people across gender identity, gender expression and race.<sup>12</sup> And there was Norma Cumpian, a former incarcerated mother, who spoke of both her own resilience in putting her life back together after serving eighteen years in prison for killing her batterer, as well as her own dedication in working to make a difference with

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7. Rachel VanLandingham, Assoc. Professor of Law, Southwestern Law Sch., Presentation at the Southwestern Law Review Symposium: Locking up Females, Failing to Protect Them, and Punishing Their Children & Families (Nov. 14, 2014).

8. I. Bennet Capers, Professor of Law, Brooklyn Sch. of Law, Presentation at the Southwestern Law Review Symposium: Locking up Females, Failing to Protect Them, and Punishing Their Children & Families (Nov. 14, 2014).

9. Marina Angel, Professor of Law, Temple Univ. Beasley Sch. of Law, Presentation at the Southwestern Law Review Symposium: Locking up Females, Failing to Protect Them, and Punishing Their Children & Families (Nov. 14, 2014).

10. Paul Rothstein, Professor of Law, Georgetown Univ. Law Ctr., Presentation at the Southwestern Law Review Symposium: Locking up Females, Failing to Protect Them, and Punishing Their Children & Families (Nov. 14, 2014).

11. Marina Angel, *Propensity Evidence in Cases of Woman Abuse: An Essay in Memory of Professor Myrna Raeder*, 44 SW. L. REV. 484 (2015); Paul F. Rothstein, *Ambiguous-Purpose Statements of Children and Other Victims of Abuse Under the Confrontation Clause*, 44 SW. L. REV. 508 (2015).

12. Dr. Angela Irvine, Dir. of Research, Nat’l Council on Crime and Delinquency - Oakland, Presentation at the Southwestern Law Review Symposium: Locking up Females, Failing to Protect Them, and Punishing Their Children & Families (Nov. 14, 2014).

her life through her work with the Center for Restorative Justice Works, by providing support to help incarcerated parents connect with their children.<sup>13</sup> This mix of both legal and policy scholars and activists revealed—just a bit—of the breadth and depth of the impact of Myrna’s intellectual concerns and passionate advocacy.

I think Myrna would have loved this symposium. When I had the pleasure to talk with her husband, Terry Kelly, and her two sons during the event, I could see the pride in their eyes for her and the impact of her work and personality. When I think of how humbly Myrna handled her acceptance speech for the Margaret Brent Award, I know she would spend no time on personal pride, a good bit of time on gratitude to her family, friends and colleagues, and most of her time encouraging us to join her in working for justice and fairness. So I hope that all of us who have contributed to this great symposium—participants and presenters (whether published in this issue or not)—and all who read these articles will allow ourselves to be inspired by Myrna’s writing and work by carrying on the work for justice for all men and women as well as by promoting fairness in our criminal justice system for all the men, women and children impacted by it. We do justice to Myrna’s memory by committing ourselves to bring about justice for all those for whom she wrote and fought.

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13. Norma Cumpian, Program Coordinator, Get on the Bus, Presentation at the Southwestern Law Review Symposium: Locking up Females, Failing to Protect Them, and Punishing Their Children & Families (Nov. 14, 2014).