



ESSAY

Managing Sudden Death, Grief, and Loss in Close Community: Not Your Usual Law Review Essay

Swethaa S. Ballakrishnen*

Deborah Rhode's intellectual largesse has been central to chronicles of her legacy for good reason.¹ For the innumerable who have encountered her illustrious writing and expansive career, her passing has meant the loss of a visionary thinker and leader: the end of an era, the loss of a giant who, across fields, did not shy from hard questions or difficult analysis when considering

* Assistant Professor of Law and (by courtesy) Sociology, Asian American Studies and Criminology, Law, and Society at University of California, Irvine. Deep gratitude to Sydney Leigh Martin and J Abello Tharp for their research assistance, and to Schuyler Dianne Atkins and Sarah Nicole Smith, editors of the Stanford Law Review Online, for their keen engagement with this material and the chance it offered to feel through the multifaceted weights of this overwhelming departure. I borrow the structure of this title from Rhode's powerful and final law review article that was first presented at the *Mental Health and the Legal Profession* Symposium (held at Fordham University School of Law on November 6, 2020), a version of which was published posthumously by the *Fordham Law Review*. See Deborah L. Rhode, *Managing Stress, Grief, and Mental Health Challenges in the Legal Profession; Not Your Usual Law Review Article*, 89 *FORDHAM L. REV.* 2565 (2021).

1. The metrics for operationalizing her unique status and excellence within the academy are boundless. Beyond her unbelievably impressive bibliography—over 250 articles and 30 books on last count—she was, among other things, one of the first women faculty at a top law school, the former chair of the ABA Commission on Women in the Profession, and the person responsible for the gender institute at Stanford being institutionalized to its subsequent glory. Notes in memoriam referred to her commonly as a “giant” in the field of legal ethics and a “pathbreaking” and “prolific” scholar. See, e.g., Lyle Moran, *Stanford Law Prof Remembered as Leading Legal Ethics Scholar and Advocate for Access to Justice*, *ABA JOURNAL* (Jan. 12, 2021, 11:20 AM CST), <https://perma.cc/FLW9-3SY4>; *McCoy Family Center for Ethics in Society Mourns Death of Founding Director and Legal Ethics Titan Deborah Rhode*, *MCCOY FAMILY CENTER FOR ETHICS IN SOCIETY* (Jan. 11, 2021), <https://perma.cc/FLW9-3SY4>. In Rhode's *New York Times* obituary, Clay Risen describes her as a “law professor who transformed the field of legal ethics from little more than a crib sheet for passing the bar exam into an empirically rich, morally rigorous investigation into how lawyers should serve the public.” Clay Risen, *Deborah Rhode, Who Transformed the Field of Legal Ethics, Dies at 68*, *N.Y. TIMES* (Jan. 18, 2021), <https://perma.cc/G8CW-E7WU>.

ethical ends and law's true purpose. To junior colleagues, mentees, and students over decades and sites, it has meant the loss of a true champion and path-maker, someone whose favorite use of her letterhead was in service of others. To her collaborators, it has meant the loss of a generous colleague, someone who did not take shortcuts and whose commitments to causes bigger than her were always evident as a reflective and inspiring example.

Alongside these strains of loss, this more personal archive performs an intentionally different kind of recall. Although interpersonal narrative has positional limitations, recurring observances and spaces also allow for new kinds of meaning making and the capacities for imagined communities.² To those for whom Rhode's company afforded such space, alongside the loss of an intellectual visionary, there has additionally been a loss of a dependable walking/swimming/tennis/ice-cubes-in-beverage-drinking/comedy-segment-watching partner. For many of her chosen kin, there has been a loss of someone who knew how best to show up for the intimacies she curated and created with care: a deep listener, a thoughtful interlocutor, an irreplaceably kind friend.

Across these relationships with comrades, causes, and communities, Rhode's impact has been mighty, and her sudden departure has left a vacancy to reckon with: seemingly, to many of us, without solution. Without seeking to solve for this loss, and embedded in praxis I inherited and honed in relationship with her—feminist method—I use this Essay as a starting point to traverse this impossible terrain of grief. I do this in two parts: first, by using the trajectory of our relationship to trace lessons inherited from witnessing and losing a life in close community, and then, to use this reflexivity more critically, as she would have nudged, in service of building beyond this moment of loss towards the futures we deserve.

Professor Rhode to Deborah: Making Space for New Versions of Self in Community

For more than two decades, Professor Rhode's work as a pioneer in the fields of gender, law, leadership, and legal ethics has been central to my research and scholarly inquiries as a feminist lawyer and aspiring legal academic. Still, although there is no dearth of ways in which Rhode defined and advanced scholarship within these fields that I find my primary homes

2. See *Invisible Institutionalisms: Collective Reflections From the Shadows of Legal Globalization* (Swetha S. Ballakrishnen & Sara Dezalay eds., 2021). Drawing from feminist methods and theory of interdisciplinary and reflexive exchange, I argue, along with my co-author Sara Dezalay, that "meanings are also made with repetition—the more we return to the places and words and ideas that hold value, the more value we can create from and with them." *Id.* at 9.

within, it is from observing her methods of engagement within them that I have learnt most deeply. It was not just that she was a renowned scholar with command over the several fields that claimed her as their own; it was that she claimed membership within each of these spaces in her own unique way. Pertinently, her ability to draw attention to minority experience within feminist legal scholarship led the field by powerful example³: She understood better than (and before) most that clean categories did not always serve variations in experience and that true equality required attention to the “differences that difference made.”⁴

Even as a law student, it was evident to me how much I wanted to emulate her scholarly temperament. For one, her writing was sharp and effective while maintaining the approachability that a lot of famous scholars found counterintuitive. I also appreciated that she was a trailblazer who wrote about gender before it was “cool” to write about and wrote about it in feminist ways that acknowledged affect and wit, character and disposition, alongside rules, laws, and normativity. As someone who sought that sort of balance in my own writing and eventual career, I was struck by her ability to do this while being in senior leadership positions across various institutional and community fora.

In the last decade, when this knowledge of her work and career moved from aspirational points on paper to a real, lived, interpersonal relationship, I had the chance to deepen this admiration of her: first as my senior colleague and mentor, and, over time, as my dear friend. When I first came to Stanford as a doctoral student, I was nudged in Deborah’s direction by David Wilkins, and being in her orbit at Stanford helped me navigate some years at grad school where I was unsure whether I’d fit in. In my last few years at Stanford, Deborah was my official faculty mentor when I received the Vice Provost’s *DARE*

-
3. Several of Rhode’s articles deal with this strain of inequality of experience, taking note of the importance of underrepresented categories. In her writing as early as in the late 1980s, she critiqued structural factors (e.g., professional spaces and ideas of mainstream feminism that excluded members by creating a generalized idea of the term “woman,” noting diversities along the lines of race, single parenthood, and sexual orientation). See generally Deborah L. Rhode, *Perspectives on Professional Women*, 40 STAN. L. REV. 1163 (1988) (professional spaces); Deborah L. Rhode, *Feminist Critical Theories*, 42 STAN. L. REV. 617 (1990) (mainstream feminism). On the limits of progress and its unevenness along lines of race, ethnicity, and sexual orientation in legal education and in educational contexts more generally, see also Deborah L. Rhode, *Midcourse Corrections: Women in Legal Education*, 53 J. LEGAL EDUC. 475, 481 (2003), and Deborah L. Rhode & Christopher J. Walker, *Gender Equity in College Athletics: Women Coaches as a Case Study*, 4 STAN. J.C.R. & C.L. 1, 32 (2008).
 4. This idea about the difference “difference” makes was the connecting strain of a 2003 volume that Rhode edited and later expanded upon in a 2014 article. See Deborah L. Rhode, *THE DIFFERENCE “DIFFERENCE” MAKES: WOMEN AND LEADERSHIP*, Stanford: Stanford University Press (2003); Deborah L. Rhode & Amanda K. Packel, *Diversity on Corporate Boards: How Much Difference Does Difference Make?*, 39 DEL. J. CORP. L. 377 (2014).

fellowship,⁵ and the particularities of that formal structure allowed us to build a relationship which, among other things, helped remind me of all the ways in which my life and work had “legs” beyond the confines of graduate school.

In the years since I left Stanford, Deborah and I got closer, even though I was physically less proximate. When I was in Abu Dhabi for several years as a postdoctoral fellow, Deborah was one of the nodes to the U.S. academy that made me feel like my work was still relevant by engaging with it and me through various symposia, invited talks, and regular, technologically complex, video chat calls (especially caring because these were well before COVID times, and anyone who knows Deborah knows that technology was her nemesis). When I finally went on the academic teaching market, Deborah wrote letters and made the calls that would eventually help get me the job that I have today. The same year, her remarks on a book proposal and draft shaped it instructively.

The transitions in our relationship over these years and her capacity to navigate and nurture its coordinates remain Deborah’s most significant lessons in my life. It was not just that she made time for me, it was the texture of that time she carved out and the model of mentorship it offered me by example. Although she could have easily defaulted to modes of hierarchy, she always engaged with my ideas on their own terms. The confidence that these exchanges instilled, especially for a junior person of color who consistently felt disenfranchised within the academy, was tremendous, and it remains crucial to my entry, navigation, and success in this field.

Lessons in Kin Making: Who and How to Make Communities with Grace

These are short snippets of the many ways in which Deborah Rhode shaped my life and career, but their collective import is the same: By just committing to showing up over and over again, in a range of ways, she helped unlock doors that were certainly not going to easily open for someone like me. Further still, in not making the unlocking about her, she made me feel like I deserved to walk through these many doors, thereby changing the nature of the navigation.

This idea of *deserving* is crucial because it contextualizes the care Deborah Rhode gave in her close relationships. I’m a first-generation lawyer and academic and the first in my family to come to the United States for graduate school. Needless to say, my path to becoming a law professor has been far from

5. For more information about the DARE Fellowship, see *DARE: Diversifying Academia, Recruiting Excellence*, Stanford Office of the Vice Provost for Graduate Education, <https://perma.cc/3CAV-NKPY>.

linear. I still remain one of the very few law professors of color whose primary law degree is not from a first-world country. Much of my career has rested on the reach of my written scholarship over the past decade. But rigorous scholarship does not magically appear, and it is certainly not an individual effort no matter what name is on the byline. My writing has been directly dependent on the generosity of senior colleagues who would read my drafts before they would become “work” and who would speak on my behalf. Not only would Rhode read my work closely and give keen comments; she would share her own work and genuinely incorporate exchanges, allowing a sense of reciprocal agency to permeate the relationship. It was such reading and relationship that would transform my writing into scholarship worth paying attention to, to code it in legitimacies that were more directly viable for others who were less peripheral on the academic job markets. Still, this is not just about her generosity or kindness. Rather, what was striking to me was her capacity to perform equanimity with those that she could have easily demanded deference from. Rhode’s reviews and engagement with my work have been central to this legitimacy creation that has marked the viability of my career. But the ways in which she did it while also building communities of care is what I have the most respect for in recall.

Just as she read on the author’s terms, she showed up in her relationships on terms that were valuable to the other. When I started to desire a more public acknowledgement of my nonbinary identity, Deborah was one of the few people who did not ask for an explanation or express discomfort with using my preferred pronouns. The way in which she was matter of fact about it allowed me to not just share more of my journey with her, but also to feel more confident about being more assertive about my pronoun usage. But just as she recognized the pointlessness of subscribed binaries, she also was quick to craft their strategic deployment in service of the people she was committed to protecting. I still recall her calling to tell me she was going to use she/her pronouns in her letter to the USCIS for my green card application, because she did not want a possible miscommunication to come in the way of my immigration status. Her innate capacity to know how to show up reflected a thoughtfulness beyond generosity; it showcased *sight*.

Deborah also knew when the personal was political and when one had to insert oneself into the narrative to do good theory. In one of the last drafts that we exchanged and deliberated on, she reminded me that it was “too hypocritical to continue the typical abstract academic analysis and pretend that the struggles are someone else’s problems.” This reminder that *not* inserting oneself into the analysis was a kind of violence because “it is what perpetuates stigma” gave me the power to send off an exceptionally personal preface to my book to press with less hesitation. And it continues to be a parting lesson I live with. It certainly is what gives me permission to write about her legacy centering grief, loss, and vulnerability in this way.

Still, I was just one small part of her cosmos, and reflecting on the ways in which she made community—agnostic of status, age, rank—has been another constant source of learning by example over the years. Particularly, in the weeks and months since her death, I have been buoyed by her invisible presence through conversations with others across stages whom she impacted in similar ways, the ways in which she used vulnerability and honesty to build kin, and the kind of trust that these exchanges of sharing offered so many who were close to her. Although I did not know many of these people except through her stories, I have found myself struck by the tools she left her friends to find each other and build in her (physical) absence, the ways in which she held us all accountable on our own terms and as a group. She wanted to be remembered by her relationships, by the ways in which she showed up for them, even when—especially when—it was hard. She knew, even when there was reason to forget, that connection and community was at the center of all that mattered. And by making time for it, by handling these spaces with care, she forced us all to be better. These lessons, especially as we struggle with an overworked and mental-health ridden epidemic as lawyers, are worth heeding.

Discombobulated Time and Denying Death

Like hope, grief, too, feels like a thing with feathers⁶: perching in the soul, singing tunes without words, or stops. Yet, unlike the metaphor in Dickinson's beautiful poem—another shared inheritance from Deborah's legacy in my life—it does not always subsist without crumbs during times of extremity.⁷ Over the past months, returning to Rhode's words, extending her ideas, committing to her visions for the futures she thought our profession deserved, have served as important crumbs in helping counter the enormity of this grief. Not only has it offered a space to place this grief: an especial luxury for those mourning from multiple locations and ambiguous categories of relationship; but in writing this essay, I feel newly rejuvenated about the legacies of kindness and community that extend well past one's physical presence.

In a letter that I return to often about death, the late *New Yorker* editor-in-chief, William Maxwell, writes that when people we love die, the unbearableness of the situation offers its own recourse: Because one cannot bear it, it simply, in a sense, does not happen.⁸ Maxwell writes (to a girl who

6. See Emily Dickinson, *Hope is the thing with feathers*, POETS.ORG, <https://perma.cc/8PEB-CAJ7> ("Hope is the thing with feathers / That perches in the soul / And sings the tune without the words, / And never stops at all.").

7. The last lines of the poem are "I've heard it in the chilliest land, / And on the strangest sea; / Yet, never, in extremity, / It asked a crumb of me." *Id.*

8. Full text of the letter from the original book, *The Book of Eulogies: A Collection of Memorial Tributes, Poetry, Essays, and Letters of Condolence* (Phyllis Theroux ed., 1997), is *footnote continued on next page*

has lost her brother): “Without even thinking about it you, the one who didn’t die, change, enlarge your nature so that there is room for them too, and they go on living in you and through you.”⁹ With time, I have had the unbearable honor of subsuming lives into my own. But much as I appreciate its philosophy, this advice has not lent its comfort seamlessly following Rhode’s sudden loss.

At least some part of this inability is rooted in sheer disbelief. Days prior to her death, we had been talking about logistics for an upcoming visit to her gender class, an annual tradition that reinforced her desire to recursively grow with others. Given the way in which “COVID time”¹⁰ operates, this befuddlement is perhaps to be expected. In the middle of this still-raging pandemic, perhaps some losses are more viscerally experienced than others. For those for whom death has meant the halting of recurring routines, I imagine the loss affords a chance at deliberate closure. For others sharing virtual intimacies, the loss in the middle of this time holds out an unhealthy hope that perhaps this is all an illusion: that her words are only another detailed voicemail away, that the mailman might bring us another self-wrapped package with her familiar scrawl, that our calendars are about to add another Zoom time for watching John Oliver together, only to find a particular segment too close to truth to be funny anymore.

When one goes for months upon end without leaving a small, immediately proximate bubble, it might seem like everything outside of it is similarly skewed and therefore equally viable to return to a certain normal. It allows us to imagine that perhaps we have lost track of time because *all* time is fuzzy now—that if we allow ourselves to not dwell on it, things that feel violently impossible might not have happened at all. Even as I write these words, I can hear Deborah’s voice in my head laughing in disbelief at my commitment to what sounds like escapism, to my capacity to dream that “when the world opens up,” she will be at the next conference, planning a dinner at her favorite Italian corner restaurant, whisking us away between sessions to fit in another walk.

But beyond the literality of this impossible longing, there is a grounded expectation in this imagining. Whatever futures I might inherit are necessarily altered by the impact she has had on my life, and the resilience of that kindness to extend beyond the act of physical exchange. If this pandemic—or my

available at *The End of Life: Exploring Death in America*, NPR, <https://perma.cc/BLN4-3LSL>. For Maxwell’s own obituary, see Wilborn Hampton, *William Maxwell, 91, Author and Legendary Editor, Dies*, N.Y. TIMES (Aug. 1, 2000), <https://perma.cc/HH73-2FBE>.

9. *The End of Life: Exploring Death in America*, NPR, <https://perma.cc/BLN4-3LSL>.

10. On the pandemic’s especial tendency to stretch and shrink timelines, see Robin Abcarian, *If the Weeks Seem To Be Passing Faster or Slower Than Usual, You’re Not Alone. It’s COVID Time*, L.A. TIMES (July 18, 2021 3:00 A.M. PT), <https://perma.cc/8WU6-7LWA>.

transnational life more generally—has taught me anything, it is that distance and time are artificial categories and that connection is a force without logic that transcends rationality. And, in a sense, this trust that she lives on, through her ideas and words and acts of community-building that she has left behind—a kind of cement that binds all those who knew her and have found new ways of relating through their shared mourning—feels like the only way in which to make sense of the loss. The call to all those whose lives she touched feels clear, urgent: Despite the impossible sadness of the moment, Rhode’s legacy will live beyond it, and through it, she will too.

The gift of this parsing has been irreplenishable: It has allowed me to simultaneously heal alongside the acceptance of this terrible loss, while finding ways, as Maxwell argues, to deny the unbearable finality of death. And for this too, I remain utterly grateful.