

ANTI-DISCRIMINATION LAW PROJECT:  
Helen Cassidy, Atty.



Next we have Helen Cassidy and anti-discrimination law. Some of you heard me talk about the NAWBO organization and my introduction to the feminist community of Houston over the Nikki Van Hightower firing and a lot of other silly stuff. We used to have some real bozos running City Hall, didn't we? I mean some REAL BOZOS. They weren't just bubba, they were bozos. They were just incredible.

Anyway, that's when I met Helen. And we've known each other for a long time. She was a professor of mine in a very delightful course that I took at the University of Houston Law Center on discrimination against women. And that was when I was introduced to the writings of Eleanor Holmes Norton. Isn't that her name? Eleanor Holmes Norton. She could easily have been, had Jimmy Carter won re-election, on the Supreme Court of the United States. Anyway, Helen Cassidy, she's a fighter. Not only is she a fighter, she's smart. My grades weren't good enough to know if when she went through law school if she did a magna cum ludi or a suma cum ludi. Maybe she just did a ludi cum lot of lotty. That was a joke. She's one smart woman, and she's currently the staff attorney for the 14th Court of Appeals of Texas located here in Houston. She's going to speak on anti-discrimination law in general. I wish to welcome Helen Cassidy.

By Helen Cassidy:

My button for today reads: "Get an attitude." That's really

my message for today too. I'm a loud mouth, opinionated, middle class, middle aged white female, who grew up in a little bitty piss-ant Texas town. And a lot of people think I'm crazy. Some of you who have heard me rant and rave may also think I'm crazy. But I never really stopped to wonder why I'm not like other people. What I spend a lot of time wondering is why more people are not like me. It's an attitude that I highly recommend. It's kept me sane for almost 52 years. And it's the attitude that brought me to this conference. And I'm so glad that it did.

It's been a real and sincere privilege to be here. This is an historic event and all of you, I promise, will look back on it with great pride and realize the privilege it's been. Let me tell you two little stories of my own.

Twenty years ago I met with a small group of women, and we had a dream. We wanted to start an organization to promote feminist candidates for political office. And out of that meeting in March of 1972 was the first convention of the Texas Women's Political Caucus. I was privileged to be elected the first chair of that caucus. And in the twenty years of its existence, it's had phenomenal success. We've elected many feminist people, male and female, to office in this city and in this state. I am so proud and so privileged to have been in that first small meeting, planning that first convention.

Nineteen years ago, four of us were sitting around in a motel room in San Antonio, Texas, because we were there for the State Democratic Convention. We were drinking beer and laughing and talking as folks will do in a slumber party situation. And suddenly one of the women in the room began to speak about her rape, that had occurred a few years prior. We were astounded not by the shame and degradation that she had experienced at the hands of the rapist, but we were astounded to hear her bitterly complain about how she had been treated by the police and medical technicians after her rape. She ended by saying, "it cost me a hundred dollars to get raped." Now we were all involved, concerned feminists, but we didn't know that in Texas at that time if you got raped you had to pay to gather your own evidence at your medical exam of that rape. A year later, we had a bill passed through the legislature of the State of Texas that required governmental units to pay for gathering of evidence with the medical exam after a rape. We also, a year after that, had developed a medical evidence kit for rape victims and began distributing it all over this state to hospital emergency rooms. I am so privileged to have been in that motel room in San Antonio some nineteen years ago on a hot August day.

So believe me, all of you are going to look back at this conference that way and realize what a rare privilege it is to be at the beginning of something that's really important. The intelligence, the commitment and the energy in this room can change the future. I believe it will change the future, and I believe it's going to be changed because all of you met together

in August of 1992 in Houston. Every revolution starts with an idea. But it's not going to be easy. There's a very very long way to go.

The committee I moderated was entitled anti-discrimination law, and here let me offer a disclaimer. We talked, we chatted, we shared experiences and probably because of my moderation it wasn't at all organized. So the opinions I express today I take full responsibility for. I don't think everyone in that meeting is as crazy as I am. Because it was the big tent committee a lot of things I have to say will be of necessity, repetitious. So please forgive me for that repetition.

Let me give you our condensed report, and I think all the committee members will agree on this. As to the anti-discrimination law affecting transgenderals, there ain't much there. With few exceptions people may discriminate with impunity against persons who are transgendered. And that's the way it is across the board in all areas applied.

Now the United States, other foreign countries and most states of the United States promise, nearly all of them in their Constitution, equal protection under the law. They promise it, but they don't deliver it -- not in the areas certainly of gender identification as well as in other areas, sexual orientation, and large measures to just the area of plain old sex, male/female discrimination. The United States Title VII promises freedom from employment discrimination but it excludes gender identification and sexual orientation from its coverage.

As some of you may know, sex is included in Title VII as a result of a joke. When it was being introduced in the Senate, in order to show how foolish it was to pass this piece of legislation, one Senator said, "well let's just add sex too, ha-ha-ha." Well fortunately we've been laughing all the way to the courts since 1964 when they passed that.

With 80% of our federal judges in this country now appointed by Presidents Reagan and Bush and with the Neanderthal Supreme Court, you're not going to get a court interpretation that says that sex also includes gender identification. Simply don't hold your breath for that. But we need to keep insisting that it should be that way.

The American with Disability Act, of course, as you know, in the most insulting way possible excluded transgenderals. My committee discussed whether indeed transgenderals had even cared that they're excluded except for the incredible insulting way in which they were.

You're going to be, because you're writing basically on a blank slate, spelling your own names and writing your own identity. And you need to ask yourself whether part of that identity includes disability, or perhaps you only want it to be perceived disability.

Perhaps you don't want the disability notion there at all. I think that's an issue that has to be thought through and discussed in the years to come. Is this perceived disabled to be part of the definition that you write because you've got to insist on spelling your own name and not letting anyone else do it for you?

Well let's look at the few bright spots in the lawn. You've heard about them from a number of other people so I'll go over them very quickly. My choice for personal best law is the city of Santa Cruz. It prohibits discrimination, not only on the basis of sex, gender and sexual orientation, but it also includes height, weight and personal appearance. And by golly, we shouldn't forget those last three when we're drafting laws. Gender is given the same definition of sex and the definition section and includes transgendered individuals. It's simply quite the best one around.

Now, Seattle has a fair employment practices ordinance and a housing practice ordinance. Both prohibit discrimination on the basis of sex or sexual orientation, and sexual orientation in the definition section includes transgenderism and transvestism. The government of Ontario prohibits discrimination on the basis of sex and sexual orientation and contains disability protection -- the strategy there of course is to attempt inclusion. Denver's non-discrimination ordinance lists gender as a protected class and is applied to transgenderals. Cities of Boulder and Afton also protect on the basis of sex and sexual orientation. New York City had an executive order promogated by Mayor Koch that protected, as the city contractors could not discriminate on the basis of sexual orientation. The New York court held that that include transgender people. Now, obviously that's pretty much a wrap up along with the other things you've heard today in the area of non-discrimination. We have a very long long way to go, but some things are happening.

I want to share with you a cartoon that appeared this week in the "Houston Press", which is sort of our Maverick weekly tabloid newspaper here in Houston, Texas. It shows George Bush at the podium, obviously speaking to the throngs. And he says, "I come to you this evening as a candidate of change. I changed my position on abortion, taxes, Iraq and campaign sleeze. I'd change my sex if I thought it would help me get elected." The next frame shows a political analyst going, "pssss pssss pssss." The last frame shows George in full drag saying, "I come to you this evening as a candidate of change." Now let me tell you when you finally make it to the political cartoons, you are at least getting recognition and it's becoming. Take it where you can get it. They're beginning to learn there's a transgendered community out there.

Now, how do we get to where we want to go? Well I got another button. It has an equals mark and underneath it, it says, "me too." Now I suggest to you that every time you see an equal sign, you think, "me too." Insist and never abandon the argument that transgenderals are covered under the equal protection clauses of various Constitutions. Simply never abandon that philosophy.

Always insist, "me too."

Secondly, continue to insist that transgenderals are already covered under anti-discrimination laws under sex, gender, or sexual orientation. Argue all of them. Try to make those laws extend to cover you under those definitions.

Third, attempt to amend existing laws to include gender identification. Preferably, list it right up front, but if it won't work, work it in under the definition as Maria was talking about. Where there are not yet laws in place, and that's virtually everywhere, draft and present them in your city, your state, your nation. Ask to be included. Plead to be included and then kick and scream and demand to be included if that's what it takes.

Last I would say, keep your eyes on the target. It's so hard to do in every civil rights movement. You get off into so many side issues. We all know in this movement, like the feminist movement, they want to talk about are clothing and bathrooms. Always. Some twenty something years ago when I started speaking out on Women's Rights, it was considered a real novelty to see that a female was talking about rights. And invariably when I went out to speak they wanted to know about my underwear. "Do you burn your bra?" I would always say, "no, it's the only support I have." Then the next thing they wanted to know was about the bathroom. Answer that chump, come up with something quick and get on to what we're really concerned about. Those are nothing but side issues designed to get you off talking about underwear. I use to say, "every time I want to talk about basic human rights, you people want to talk about underwear. Who's got a problem here?" And just say it and get on with it, and insist on talking about what you want to talk about.

Now, how do you implement these strategies? Educate others. First of all I like to think that I'm an open-minded, fair-minded individual. I said that to one of my best friends this morning, and he said, "Helen, you are open minded to the most weird philosophies in the world, but you are the most closed minded human being in the world about ignorance." I said, "well ignorance is one thing: willful ignorance is a by-God sin." That's so true. But in 1971 I went down to the City Council, the City of Houston, and proposed a Human Rights Ordinance, the first one that was ever proposed. And I proudly included a whole checklist of covered areas. I included sex of course, I included sexual orientation, but it never occurred to me to include gender identification. That was simple ignorance. We have to understand that ignorance is not malice, it's willful ignorance that amounts to malice and you just don't put up with it.

Secondly, you need to reach out. Judge Andel talked the other day about building bridges -- the sense of bright people going ahead and smoothing the path for people who follow behind. Well, I call the same thing "kicking down doors." I'm simply not as kind and gentle as Judge Andel. But you can't kick down those doors all

alone. So when I talk about building bridges, I'm talking about building them to other groups of people who can share and understand your concerns, and then they can help you knock those doors off the hinges. Now some groups, I think, are naturals. I, of course, believe that feminist groups are natural.

Join those groups, participate in those groups. All of you, whether male to female or female to male, have a vested interest in ridding our culture of sexism. Sexism is a serious social disease. It hurts every one of us and we've got to irradiate it.

You can succeed in getting feminist support for your efforts. I'm a staunch feminist and I confess I really do not understand gender dysphoria. But, you know, that simply doesn't matter. I do not have to understand it. The only thing I need to understand is that people are discriminated and oppressed because they suffer from that. And discrimination is wrong, and I've always understood that and that's a message anyone with any kind of heart and concern should be able to understand. And I think if you take that message out you can get support.

Reach out to these feminists groups in your community. You may not be welcomed at first. Too bad! Crash the party. Go on anyway. I'll say the same thing about gay and lesbian groups and minority groups in your community. You won't necessarily be welcomed there either, but go. Most good activists know that bigotry always wears the same mask. They may dress a little bit differently but the face behind bigotry is always the same. Some wear designer clothes like these people we saw these past two weeks in Houston's Republican Convention, and others wear plain white sheets. But I assure you the bigotry there is the same. Gays, lesbians, feminists, racial, ethnic minority groups need to be sensitized and educated to your needs and to the oppression that you suffer in this culture. Offer to speak to those groups. Join and participate in your political party. Make your few voices seem like many.

Listen, politics is all smokes and mirrors anyway. Look at the religious right in this country, for instance. They've managed to appear like a vast Army instead of the small rag tag band a bible toting bigots that they really really are. Use those same smoking mirrors that they use.

At one point in the city we had 50 members in the National Organization for Women. I was President of that organization back in 1970 and '71 and into '72. I just wouldn't leave. We only had 50 members and politicians in this city thought there were jillions of us. I got phone calls from Fred Hofheinz when he first ran for Mayor and said how he had made a really sexist comment on local TV. Someone had said, "how does your wife feel about your running for Mayor?" Well who cares how his wife feels about it, quite frankly. But Fred responded by grabbing the microphone from his wife and saying, "my wife supports me and stands behind me in all that I do." Within a week he received 200 barefoot and pregnant awards

which the National Organization for Women had sold. We only had 50 members, but we'd sold a lot of awards. And his phones were ringing off the hinges so he calls me and says, "could you please stop your members from sending these barefoot and pregnant awards." To me. And I said, "God, it's a large organization. They are all very independent people, and I simply can't control them." No way in hell did I say, "we only have 50 members -- what are you talking here?" I was so excited to find out there were 200.

It doesn't hurt to exaggerate either. I always used to say how many members do you have in Houston now? I say 500, when we had 50. Soon we had 500. So, here I'd say, don't make me a liar, pay your dues, let's get more people. It doesn't hurt to use those little smoking mirrors.

Now education. The other thing you need to do, you need to educate yourself. You need to research your local, your state and your national laws. You need to go out and learn who your political representatives are. You need to raise your issues with those representatives. You need to vote. You need to cast informed votes. Find out how those candidates are going to address your issues. Inform yourself on the issues affecting other oppressed groups. And read the history of other civil rights struggles. Learn from their mistakes, learn from their successes, because there are so many parallels in every group that is organized to demand rights for that group.

Now, I say it again. You have a very very long way to go. And it won't be easy. Back in 1848, a group of feminists meeting in Seneca Falls recognized the difficulties they would face. Listen to part of their declaration of women's rights. "In entering upon the great work before us we anticipate no small amount of misconception, misrepresentation and ridicule. But we shall use every instrumentality within our power to affect our rights."

I say in conclusion, keep your heads high, keep your chins up, but don't ever let down your guard. Failure is not only impossible, as Susan B. Anthony said, but it's unthinkable. Victor Hugo once said, "more powerful than a thousand armies is an idea whose time has come."

The idea of equality under the law is plain old pregnant and overdue. Those of us who believe in human dignity, in human equality simply should intend to deliver. And that's the attitude I hope all of you can leave here with. Thanks.