

II
REMARKS AT MONDAY
MORNING SESSION

By Paulette Brown, Esquire
President of the American Bar Association

President Ramo: Many of you know that it is a special pleasure for me to intro-duce, as is our tradition, the sitting President of the American Bar Association. But today, it is a special honor, and so let me ask you to welcome, and then I will introduce, the President of the American Bar Association, Paulette Brown. (*Applause*)

Paulette is an extraordinarily distinguished lawyer. She's the first woman of color to be President of the American Bar Association. She is known throughout the country for her work as a labor- and employment-law expert. She has been in-house counsel to Fortune 500 companies. She has been a municipal judge.

She's been the President of the National Bar Association and has received both the Margaret Brent Award, which is a high honor of the American Bar Association, and the highest honor that the National Bar Association has to give.

What I want to say about Paulette, though, is something that you don't know, and that is she has, in her year as President of the American Bar Association, taken it as her mission to go to all 50 states to explain to all bar associations and lawyers why belonging to the American Bar Association is such a deeply important obligation for lawyers because of the role of the ABA in the democracy.

What you also may not know is that, in each of those places, she has insisted that they find a Boys and Girls Club for her to go. She was just in New Mexico, and so I had the complete delight of watching the response of not just lawyers and members of the public, but seeing what it means to a bunch of kids, at a place like a Boys and Girls Club in the South Valley of New Mexico, to see the actual President of the American Bar Association come to talk to them.

And I cannot thank her enough for what she is doing, because the democracy depends, I think, in equal parts, upon an educated judiciary, an educated citizenry, and a group of people who, wherever they are, think "I could be President of the ABA."

Ladies and gentlemen, my friend and my honored hero, Paulette Brown. (*Applause*)

President Paulette Brown: Good afternoon. Thank you, Roberta. It's always a pleasure to see you. And she's already told you about my recent visit to Albuquerque, so I won't go through that again. But I'm grateful to the ALI for continuing the tradition of having ABA Presidents speak at your Annual Meeting. ALI, I think everyone knows, is a valued partner of the ABA, and as with you, one of our most outstanding Presidents and President of ALI—and all the ABA Presidents who have come before me—it's really a great privilege to serve the legal profession as ABA President.

As many of you know, the ABA has four goals. Goal two is to improve our profession by, among other things, promoting pro bono and public service by the legal profession. And goal three is to eliminate bias and to enhance diversity. The objectives of this goal are to promote full and equal participation in the justice system and eliminate bias in the legal profession and justice system. When we think of our responsibilities as lawyers and jurists, we know if our Constitution is to have real meaning for a significant portion of our population, and if we, the people, are to live in a civil and democratic society, everyone must be treated fairly. Thus, I believe goals two and three are inextricably entwined, and particular focus needed to be given to both during my year as President. I have focused on these two goals in particular to build upon the ABA's longtime commitment to diversity and inclusion in the profession and continue its rich tradition of pro bono activities.

There is an urgent need for lawyers to help bridge the gap, through their pro bono efforts, to assist those who are in desperate need of legal services at a time when more than 80 percent of low-income people with civil legal issues do not obtain the legal representation they need. Every day, low-income Americans need help with civil legal matters that go to the heart of their safety and security. This, along with the criminalization of poverty, threatens our confidence in the justice system.

One important initiative this year was the creation of “And Justice for All: An ABA Day of Service.” Tens of thousands of lawyers, including many of you in this room, mobilized on October 30th, during National Pro Bono Week, to provide free legal services to individuals around the country and abroad, who could not afford an attorney, heeding the words of Judge Learned Hand, who told us, “It is the daily; it is the small; it is the cumulative injuries of little people that we are here to protect . . . If we are able to keep our democracy, there must be one commandment: Thou shalt not ration justice.”

I also thought about how to best mobilize the ABA’s nearly 400,000 members to impact the legal profession and the justice system in sustainable ways that will continue to resonate 10 years from now. The primary vehicle I used to do this was the creation of the ABA Diversity and Inclusion 360 Commission.

The Commission was charged with or is charged with examining the many facets of diversity and inclusion in the legal profession and to come up with practical resources to address the challenges we face.

The underlying sense of urgency for this work stems from the crisis in confidence that many Americans—particularly young Americans—feel about the fairness of our justice system. A recent poll that Harvard conducted shows that nearly half of young Americans— young adults—lack faith in the nation’s justice system.

Sadly, there’s been no shortage of recent events to compel people to question the fairness of our nation’s justice system. The ABA strongly believes that everyone should have access to justice and representation in our legal system. Moreover, the ABA has embraced the fact that it is important for the survival of our profession to become more diverse and inclusive, as clearly evidenced by its most recent election when all women were elected to officer positions in the ABA.

While significant progress has been made in improving our justice system and diversifying our profession, we have come to understand that implicit bias has created an enduring barrier that has

prevented us from doing better. We remain the least diverse profession of all comparable professions, with 88 percent of all lawyers in America being white. Combating implicit bias—the subtle and sometimes not-so-subtle prejudices we may unconsciously hold—is a more understated and equally harmful threat to the justice system. Implicit bias isn’t only a challenge to our justice system, but the legal profession as a whole. We see it in our offices and our practices, where women and lawyers of color have struggled to advance. Women constitute more than a third of the profession, but only about a fifth of law-firm partners, general counsels of Fortune 500 corporations, and law-school deans. People of color make up fewer than seven percent of law-firm partners and nine percent of general counsels of large corporations. In large law firms, only three percent of associates and 2.55 percent of partners are African Americans.

In government, the racial and gender imbalance is similar. Among elected prosecutors nationally, 95 percent are white, and one percent are women of color. And among federal judges, there are only 82 women of color, and only 12 women of color on U.S. Courts of Appeals.

The ABA’s 360 Commission is organized into four working groups. An Implicit Bias Working Group focuses on creating training materials for the judiciary, prosecutors, and public defenders that explore an understanding of and solutions to implicit bias. A Pipeline Working Group addresses barriers facing diverse students at critical points along the pipeline—K-12, college/pre-law, and law school through bar passage. The Economic Case Working Group seeks to expand economic opportunities for diverse attorneys, which include women, people of color, members of LGBT groups, and lawyers with various levels of ability. And the Diversity and Inclusion Implementation Working Group is examining what the ABA can do to lead efforts around diversity and inclusion for itself and for local and state bar associations.

Each working group has been charged with developing pragmatic, collaborative, and forward-looking solutions. Pragmatism, because

we want to create tools that can help those in the trenches tackling diversity and inclusion day in and day out. Collaboratively, because we want to support and strengthen the many great minds, organizations, and conversations already advocating for diversity and inclusion. Forward-looking, because we want to spur lasting change and make meaningful strides toward a fully diverse and inclusive profession and a more fair justice system.

We have already launched the highly lauded implicit-bias training video for judges, where we hear from experts in the area of implicit bias and also from judges who acknowledge that they have biases despite their best intentions. All of us have biases, and these judges help to give others permission to accept the fact that they may have biases, too, and so that their decisionmaking will not be adversely affected. We are doing several other things, including creating portals and understanding that we cannot wait to try to persuade young people to have a career in law, that we must look further upstream so that we can ensure that we have fairness and we have an increase in diversity and inclusion in our legal profession.

We are trying to make a difference in meaningful ways. And while the Commission itself concludes in a year, much of its work will live on through other entities through the ABA that are dedicated to our association's goals two and three.

As Americans and as leaders, we are bound by our history, the oath we took when we became lawyers, our future, and to the wisdom of the words written in our Constitution by our forefathers. And as agents of the law and as keepers of the Constitution, our challenge as lawyers and jurists is to make real the promises for all citizens.

These are just a few of the many ways, big and small, that we are working to make a tangible and long-lasting difference toward a more diverse and inclusive legal profession.

As lawyers, we must not only be up to the challenges of improving diversity and inclusion in the legal profession and confronting implicit bias in the justice system, but we must also lead the effort. It is

our obligation as citizens and our duty as the most visible representatives of the American legal system.

Thank you very much. (*Applause*)

President Ramo: Well, we are honored to have you here, and we're grateful to have you as a member of The American Law Institute. We're always very proud when that happens.

I think nothing can be more important really than your pointing out to all of us how deeply critical recognizing bias is, because until you recognize it, you can't really deal with it in a meaningful way. So thank you very much for everything you've done, and we look forward to having you back as an active member of The American Law Institute when you get a little furlough from this current part-time job that you have.