



TRANSCRIPT

Key Conversations with Phi Beta Kappa

Fighting for Civil Rights Using the Power of Law With Margo Schlanger

In this episode, Fred Lawrence sits down with Professor Margo Schlanger, a leading civil rights expert and the founder of the Civil Rights Litigation Clearinghouse. Schlanger reflects on her journey from a "generalist" undergraduate at Yale to a powerhouse advocate for underrepresented communities. She shares the origin story of her first major legal victory—a student-led project that secured childcare for high school students—and discusses her high-impact work within the federal government. From the history of prison uprisings to the digital preservation of modern civil rights cases, Schlanger offers a masterclass on how the law can be leveraged to create a more equitable society.

Fred Lawrence: This podcast episode was generously funded by two anonymous donors. If you would like to support the podcast in similar ways, please contact Hadley Kelly at hkelly@pbk.org. Thanks for listening.

Hello, and welcome to Key Conversations with Phi Beta Kappa. I'm Fred Lawrence, Secretary and CEO of the Phi Beta Kappa Society. Since 2018, we've welcomed leading thinkers, visionaries, and artists to our podcast. These individuals have shaped our collective understanding of some of today's most pressing and consequential matters, in addition to sharing stories with us about their scholarly and personal journeys. Many of our guests are Phi Beta Kappa Visiting Scholars who travel the country to our Phi Beta Kappa chapters where they spend two days on campus and present free lectures. We invite you to attend. For more information about Visiting Scholars' lectures, please visit pbk.org.

Today, I'm delighted to welcome Professor Margo Schlanger. Professor Schlanger is the University of Michigan's Wade H. and Dores M. McCree Collegiate Professor of Law, and the founder and director of the Civil Rights Litigation Clearinghouse. Professor Schlanger earned her J.D. from Yale Law School in 1993, and she clerked for Supreme Court Justice Ruth Bader Ginsburg. She teaches and writes about constitutional law, torts, civil rights, and incarceration, and has extensive experience in civil rights and in prison and immigration reform. Professor Schlanger is the 2025-2026 Carl F. Cranor Family Visiting Scholar. Welcome, Professor.

Margo Schlanger: Thanks so much for having me.

Fred Lawrence: It's a pleasure to spend time together today. Margo, part of the standard intro at the top of Key Conversations is to say that our guests will share stories about their scholarly and personal journeys, and that's where I want to start, your professional and academic journey, which we will get into, has focused on civil rights and civil liberties extensively. But looking back on your childhood now, do you see some apparent roots for this focus? Was this trajectory obvious, or at least with the benefit of hindsight, does it now appear to be obvious?

Margo Schlanger: I don't think it really does, not from my childhood. It was not until I got to law school that I began to think about my professional life as having to do with people who were underrepresented in various ways, who were poor, who were parts of minority communities, who had problems where they were being excluded from access to our shared resources and institutions, and for me, that really started in law school. The political work and so on that I did earlier than that was much more generic. So I wouldn't say that it comes from my childhood. I would say that it was when I was a young adult that I started thinking about civil rights.

Fred Lawrence: So tell us a little bit about your childhood, where you grew up and experiences that led you to be an undergraduate at Yale College before going to Yale Law School.

Margo Schlanger: I grew up in a suburb of New York City and really very much lived there rather than in the city. It took an hour to get in by train and I didn't go in all that often. So I went to an excellent high school and my main things that I did when I was a kid in high school was that I got fascinated by, I ran a literary magazine, but the part that I was fascinated by at the literary magazine, more than the writing, honestly, was thinking about how to think about the layout and the presentation of art, photography, and literature altogether in a way that made for a compelling reading experience. My grandfather was a printer. Maybe that's why I was fascinated by that. I'm not really sure. And I played the viola, and I was quite serious about the viola.

I continue to play the viola. So that's been a joy for me ever since then. So I was a very successful academic student. I don't mean to say that I wasn't, but I didn't have any deep intellectual commitments to anything in particular. I read a lot, I wrote a lot, and I

did those two things, and landed in college in part just because I thought that Yale would be a great place to go from being such a generalist to figuring out what I really cared about, which it was in the end.

Fred Lawrence: In between college and law school, you spent time with the New Yorker. Do I have that right?

Margo Schlanger: Yes, I did. It was only a year, but I took one semester off from college, actually, and worked at The MacNeil/Lehrer NewsHour, and kind of explored the idea of maybe going into some kind of news, or publishing, or something, and so I thought maybe I'd be a legal journalist, but if I was going to be a legal journalist, I wanted to really develop some expertise or maybe that wasn't the right path. I hadn't quite figured it out when I decided to go to law school.

Fred Lawrence: You said to us that law school is where the path that now has unfolded over the past decades began to really take shape, so tell us a little bit about that. It's a largely required curriculum only in the first semester at Yale Law School, my law alma mater as well, but even then you have some flexibility and then the rest of the curriculum is quite flexible. So how did you immerse yourself through that curriculum to find areas of your own interest?

Margo Schlanger: The main thing that I did, there were two things that I did in law school that turned out to be very important for my kind of development as a lawyer and a thinker. One of them is that my second semester in law school, I enrolled in the clinic and worked in a clinic that dealt with the legal needs of people who were poor, people who were impoverished, for the rest of my time in law school. I was enrolled in the clinic every semester starting my second semester, and if you'll ask me later, I'll tell you about one very cool project that was important for me.

Fred Lawrence: I'll ask you right now. Tell me about one really cool project.

Margo Schlanger: So when I was a second-year law student, having done the clinic for one semester, we did a lot of work with people who were homeless, but the shelter where we had done that work closed down and we were casting about a little bit for what should be the next way that we figured out both who we should be talking to and about what, both in terms of very simple day-to-day needs and also what were longer term needs that maybe the law could somehow address. And so we began to talk to girls, girls who were in high school, who had legal needs, and what we found in particular was that there were a whole lot of girls who were having kids, who were very much at risk of therefore needing to drop out of high school, and that would really transform their lives in a downward trajectory. It would make it much harder for them to be self-supporting and it would be bad all around.

So what we did, a group of law students, with the support of the faculty, but it was very much a student-driven project, was we developed a legal theory, an iffy legal theory,

that the Connecticut right to education was not only a negative guarantee, but an affirmative one that schools had to make sure that they reached out and solved problems that were standing in the way of kids who needed an education.

Fred Lawrence: And in Connecticut, as in many states, that is a state constitutional right to education as opposed to our federal constitution, which has no such right to education per se.

Margo Schlanger: Exactly right. That's exactly right. And so we wrote a demand letter, a lawyer's nasty gram, to the superintendent of schools and said, "If you don't provide daycare for these girls who are having babies while they're in high school, then we're going to sue you." Now, this was not a very ... I mean, it passes the red face test, as lawyers say, but just barely. This was not a great theory in 1991, but it turns out that the school actually wanted to solve that problem, and what they said back to us was, "Don't threaten to sue us, tell us how we can solve it." And so we entered a problem solving stage and worked out a way that they could ... we found them architects, and bond money, and solved some regulatory issues, and we did a whole project that was designed to help them open a daycare on site at one of the high schools. It opened a couple years later and it's actually still around. I visited it as it happened two weeks ago.

Fred Lawrence: I was just thinking as you were talking about a famous expression of Justice Louis Brandeis when he talked about the lawyers being lawyers for a situation, not just lawyer for a particular client, particular part of the case, actually quite a controversial view. But it seems in some ways that you experienced that not just as a lawyer, but as a law student, that here you start with a demand letter and then you wind up, as it were, jumping on the other side of the Smith versus Jones to work with the would-be defendant to try to solve a problem.

Margo Schlanger: Yes, that's exactly right. I mean, it was a pretty great project, and those girls have, over time ... it's been a very, very, very successful intervention in their lives, and it's one of the things that I'm most proud of in all of the various legal things I've done, was that project that I and a bunch of law students started when we were 2Ls.

Fred Lawrence: So let's talk about some of the extraordinarily impactful ways in which you practiced civil rights law, including over the time that you've been an academic. You served as the senior advisor at the U.S. Department of Agriculture leading the implementation of its Discrimination Financial Assistance Program. Tell us a little bit about that program, and its origins, and who were the people you were helping. What were the problems you were trying to solve?

Margo Schlanger: Sure. The Department of Agriculture was founded by, when Abraham Lincoln set the department in motion, he labeled it the People's Department, but unfortunately, it has not always lived up to that aspiration, and it has, over its history, had farmers and ranchers who were included, and it has had others who were not, and who lacked access to what should have been broadly accessible resources for the American

farming public. So in particular, there's a long and really very sorry history of exclusion of African American farmers and growers. There also has been exclusion of Native American farmers, of women, of Latinos. And so there's been this long history of USDA not providing, where USDA provides resources to American growers, of not actually providing equal access to those resources, and the history where that's been the most documented has been USDA's history as a lender.

So USDA has, for a long time, been a very important provider of agricultural lending. This is less true now than it was in decades past, but it remains a multi-billion dollar portfolio, and there is a very significantly documented history of exclusion from that lending, and that exclusion violates the Equal Credit Opportunities Act, and so USDA has been sued a number of times in big class actions for those violations and settled those lawsuits with multimillion, even billions of dollars in providing compensation to discriminated against. But each one of those sets of settlements has had significant flaws. And so what Congress decided to do was to come up with a program that wouldn't be the settlement of a lawsuit, but would instead be an effort to provide relatively easy access to people who had experienced a variety of kinds of discrimination, race discrimination, gender discrimination, disability discrimination, whatever, you name it, and asked USDA to set up a program that would provide financial assistance, \$2 billion worth of financial assistance to farmers and ranchers who had been discriminated against in USDA's own farm lending.

Since my expertise lies at the intersection of discrimination and tort law, I was in a very good position to design a program that would merge up anti-discrimination and a claims process, and so that's what we did. We were able to, in a very, very short amount of time, get that \$2 billion out the door to over 40,000 people who provided evidence of discrimination by USDA and to give them a measure of a remedy for that.

Fred Lawrence: Switching from the Department of Agriculture to the non-obvious connection, the Department of Homeland Security, you were a presidentially-appointed officer by President Obama for civil rights and civil liberties at the Department of Homeland Security. So tell us a little bit about some of the policies and programs you were involved in, and I'm also going to invite you to speculate a little bit about the relevance of those policies and programs to the current moment we're living in.

Margo Schlanger: So just like USDA had a long history of itself discriminating, and that led to this program, when Congress created the Department of Homeland Security, it was worried about what the Department of Homeland Security would itself do that might threaten the civil rights of the people it encountered, so it set up the office for civil rights and civil liberties as an internal kind of watchdog that could provide policy advice and also a complaint investigation process to try to head problems off before they really got too serious and also investigate allegations of civil rights complaints and other things. And so I got that job because of my background in jail and prison conditions and solutions

for problematic jail and prison conditions, and a big chunk of the job had to do with trying to get immigration detention conditions to be as undamaging as they could be. But there were also a whole host of other issues that had to do with racial profiling, unfair screening, religiously discriminatory questioning, those sorts of things.

We worked on all of those issues and made some progress on some of them, I would say. The current administration found that office and several other oversight offices that were part of the Department of Homeland Security to be a bother and a thorn in their side and has undone them all. My staff, when I ran that office, was over a hundred. It was bigger in the Biden administration, and the current administration cut it down to, I think, three, I wouldn't want to swear to it being three people, but it's a number like that, and made it report to the general counsel so that it couldn't be too independent. I think that's a sign that the office was actually doing its job of providing a somewhat independent and helpful check. What the Secretary of Homeland Security said when she undid the office and cut it down was that it was getting in the way of what the Trump administration was trying to do, which I take as exactly what it should have been doing.

Fred Lawrence: The goal was to, in the best and most constructive way, to get in the way. You founded and still run something called the Civil Rights Litigation Clearinghouse. Tell us a little bit about the Clearinghouse and what you hope to achieve with its functioning.

Margo Schlanger: Sure. The Clearinghouse - and I would be remiss if I didn't tell people where to find it. It's at clearinghouse.net on the web - the Clearinghouse is a repository of information and documents related to large scale civil rights cases across the country. It has cases as far back as the '30s, but we actually focus on modern civil rights enforcement, and so the bulk of the collection, which is about 13,000 cases currently, are since the 90s, and even more, since the 2000s. So it's about big civil rights cases, voting rights, but even more than that, prison cases, policing cases, cases to reform welfare systems, big injunctive cases, class actions, and the like. The idea is that you can look up what happened in those cases, look up what the results of them were, how those cases attempted to and maybe succeeded in effectuating change and kind of get access to what is otherwise a really quite invisible part of American law.

Fred Lawrence: Margo, one of the things I always ask my guests on Key Conversations to do is to help our listeners build their book lists and we ask for a couple of recommendations, first of all, for the generalist who has found this conversation interesting and would like to learn more about some of the topics we've been talking about, but also for someone with some background in some of the areas we've been discussing, but would like something that would take that level of knowledge to the next level up. Do you have a couple of suggestions for us?

Margo Schlanger: I have two books that I would recommend to general readers. One is a fairly new book by my colleague here at Michigan, Heather Ann Thompson, and it's called *Blood in the*

Water. It's about the Attica Prison uprising and its aftermath, and it is a terrific book. The other one is older, by Jim Jacobs, who was a sociologist and a law professor, and he wrote what I think is just one of the great books about the sociology of prison and its interaction with law. That book is called *Stateville*.

Fred Lawrence: As you were telling us earlier on about your experience as a second-year law student at Yale Law School and using the law in constructive ways with respect to helping young women in high school, I was wondering, what would that young woman, that second-year law student, make of the rest of your career? I think she'd be pretty proud. I think she would feel there has been a life well-lived in the law, and I'm so pleased that you've been able to share those experiences with us and on our campuses this year as the Cranor Family Visiting Scholar and now a member of the Phi Beta Kappa family with us. So thanks so much for what you brought to it this year and thank you for joining me today on Key Conversations with Phi Beta Kappa.

Margo Schlanger: Thanks so much. It's been my real pleasure.

Fred Lawrence: This podcast is produced by Phantom Center Media and Entertainment. Kojin Tashiro is the lead producer and mixed this episode. Hadley Kelly is the Phi Beta Kappa producer on the show. Our theme song is Back to Back by Yan Perchuk. To learn more about the work of the Phi Beta Kappa Society and our Visiting Scholar Program, please visit pbk.org. Thanks for listening. I'm Fred Lawrence. Until next time.

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