

2021 Hawaii Access to Justice Conference  
“Access to Justice and the Time of COVID”  
June 25 , 2021

“Plenary: Access to Justice and the Time of COVID”<sup>1</sup>  
Calvin Pang (Facilitator)  
Hon. Nancy Gertner (Presenter and Keynote Speaker)

The plenary session, “Access to Justice and the Time of COVID”, was facilitated by William S. Richardson School of Law’s Professor, Calvin Pang, and Harvard Law School Professor and former United States District Court Judge, Nancy Gertner.

Calvin Pang began by acknowledging some of the break-out sessions of the day and some of his take-aways from all that had been discussed during this conference. Professor Pang referenced an anecdote he had heard on the radio. The story was essentially about how the pandemic has caused less travel and less production of environmental pollutants, and now, people in previously heavily polluted areas are seeing blue skies again, regularly. As a result, people are wanting the skies to be blue. He talked about the “experienced good” of having more blue skies, causing people to want more blue skies. He likened the experience to the hope of all product vendors at food sample kiosks, being that once you experience and like their product, you will want it more. However, Professor Pang said it is a cautionary tale. As we have all come to rely on the convenience and ease of conducting our meetings through Zoom and other platforms and are wanting that to continue, it will be important to remember the vitality of human interaction and to reach out and engage, face-to-face, interpreted, for the preservation of humanity, and in our work, due process.

Professor Pang also spoke to Judge Gertner’s keynote speech from earlier in the day, when she had spoken about cases labeled as either “hard”, or “easy” cases. The easy cases being those cases which can be disposed of because of

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<sup>1</sup> This summary was prepared by Laura Cushman, Staff Attorney, Kona Office, Legal Aid Society of Hawai‘i.

standards, rules, and practices. Professor Pang spoke to how it is not only the courts that will apply standards rules and practices to dispose of cases, and difficult issues, but that anyone in a position of power can take the easy route to do so. He encouraged all of us to remain open in our work, and when faced with the easy/hard dichotomy to resist the tendency to go with the easy route, and to look at the deeper context of a person's situation. If the totality of our observations suggest we should take the hard route, then maybe we should.

Judge Gertner began her portion of the plenary session talking about law as an abstraction and our need to stay rooted in the real world. She spoke to the ways in which judges deal in abstraction, and rules and distance themselves from principles. She reflected on her experience as a Judge and the ways in which she now realizes she had treated people, as abstractions.

Then she spoke to having sat in on several of the break-out sessions during the day. She remarked that what she heard were facilitators, and service providers talking about people and outreach, not abstractions. She was moved by the panelists as people out in the community having direct human contact.

Judge Gertner asked us to think about how we can reach out and interact with our community, even given the limitations necessitated by COVID-19. She reflected on the "Civil Rights and the Homeless" break-out session, saying she had heard the panelists speak about homelessness in terms she had never heard, that brought compassion and consideration to the people experiencing homelessness. This reminded her that there are categories given to all people, including the people serve, which identify them as bad, and that is a function of our structures. She articulated that it occurred to her while listening that the physical house serves not just as a source of protection from the elements, but as a source of government protection, and the person alone is not the source.

Judge Gertner concluded by speaking to the reality that judges are distant from the people they serve, and her belief that judges should be more willing to meet people where they are. She expressed that she saw a glimpse of

it here, at this conference in Hawaii, in a way not regularly seen by her. She said she was encouraged to come back and keep learning.