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UNITED STATES Lawyer and activist

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In the United States, lawyers are vocal in the public debate and like to call themselves activists. But where is the limit to how activist a lawyer can be? The lawyer has delved into American culture, where political engagement can be so closely intertwined with legal work that the parts are sometimes difficult to separate.

A third of the congressmen in the United States are lawyers or lawyers – in the Swedish parliament it is 6 percent. And while lawyers in Sweden mostly keep a low profile, their American counterparts are significantly more present in the public debate. Some lawyers in the U.S. call themselves activists and see great opportunities in combining their legal work with advocacy.

Attorney Gloria Allred is so well known that she has been portrayed in both The Simpsons and South Park and has gotten her own Netflix documentary, "Seeing Allred." She's the one who has represented clients where women have accused high-profile people like Bill Cosby, O. J. Simpson and Donald Trump of sexual assault or molestation. The documentary depicts her work: how she has come to be associated with debates and protests, as in the issue of child support for single mothers several decades ago. Gloria Allred then refused to leave the district attorney's office until she had a meeting with him. She was thrown out by police – but came back. Since the 70s, she has appeared in television debates, initially as the only woman. And women's rights issues have become Gloria Allred's hallmark. After working for a few years at a law firm, she started her own: Allred, Maroko & Goldberg.

"We are the leading agency for women's rights. My main focus is to improve the conditions and status of women, through litigation and by speaking publicly about related issues. It's not just about me saying what I think. Most of the time I speak on behalf of clients, I become their spokesperson," she says when Advokaten interviews her.

Gloria Allred describes it as the two other partners in the law firm since the start have had a great understanding of her fighting spirit and tendency to make a fuss.

"My main task is to represent the client, and I do what is best, in terms of the client's interests. We have a lot of cases that we don't talk about," she said.

But Gloria Allred has also given herself the epithet activist and has appeared in protests as well as Pride parades.

"I'm not a politician, I'm a lawyer. Politicians put their finger in the air and see where the wind blows, because they want to be elected and re-elected and therefore often talk in fairly general terms so as not to make friends with anyone. I am a civil rights activist, and our job is to challenge the status quo, which is often unfavorable to women. It's like the myth of Sisyphus: We move slowly up the mountain, and it never ends.

But can't activism and work for the firm collide?

"I don't choose topics and debates based on what's good for my agency. The time I was kicked out of the district attorney, I had a lot of cases where mothers couldn't get child support. I wanted to raise that issue, and did what was required. I have no regrets about it. I got to meet with the district attorney in the end and that led to millions of dollars in child support going to moms who needed them.

Gloria Allred is disappointed that no more women's rights lawyers in the U.S. are being heard in the debate in 2022.

"More women are litigation lawyers, that's a small increase, and of course that's a good thing. It's linked to the fact that we have more female lawyers, even though many are not partners – and it's the partners who decide which cases to take on and how to talk about them publicly.

Gloria Allred is surprised that lawyers in Sweden do not usually call themselves activists and act as such.

"It's a privilege to be a lawyer, and that's why I think you have a duty to empower other people, because it has ripple effects. I get speaker requests from all over the world, so there's clearly a need. We need more lawyers to put forward their views, but of course there are both benefits and risks to it.

Tahmina Watson is a lawyer, activist, podcaster, blogger and author based in Seattle, where she has her own law firm. She specializes in immigration law and has, among other things, engaged against Donald Trump's "Muslim ban," which prevented residents of some Muslim countries from traveling to the United States.

"I think most people who enter the world of law don't imagine that they should also be activists. It just becomes so, when the people you're trying to help can't get a better situation unless change is created, and you become part of that development. I'm from London, and had I stayed there, I wouldn't have been an activist, because the political landscape is different.

She believes that as a lawyer in the United States, you automatically get a credibility that also gives weight to the socio-political voice. Tahmina Watson's experience is also that many clients appreciate that she simultaneously pursues political issues.

"It gives them confidence that I can solve their case, and that if the law is not in their favor, I will fight for the legislation to be changed."

In her book "Legal Heroes in the Trump Era," Tahmina Watson highlights socially engaged lawyers who operate in what she says has been a difficult time.

"I didn't feel like my activism was risky until the Trump administration took power. Then I was actually scared. But it has also caused even more lawyers to become activists in various ways, because as the president tried to shake up the foundations of the legislation, lawyers began to understand that they must stand up for it. Many lawyers had previously given donations to various organizations that work with, for example, civil rights issues, but now saw that this is not enough. This has been a time when our profession has stepped forward like never before.

Tahmina Watson also mentions the protests surrounding George Floyd's death as a factor that has made more lawyers engage in the public debate. At the same time, according to her, the media has increasingly opened its eyes to lawyers and the expertise they possess. She sees that the culture among lawyers is different in European countries such as Sweden, but wants to encourage lawyers to take advantage of their voice.

"Lawyers' knowledge is worth gold. So if you want to see change, you have a strong foundation to stand on. There are so many issues where our voices are needed. Ukraine is just the latest example. What issues are engaging you right now? And what will be important in the future? We lawyers can sometimes look forward in a way that others can't. Sweden has Greta Thunberg as a well-known activist, and she is a child – imagine what you as a lawyer can do.

At the same time, Tahmina Watson also sees how working at an agency can clash with pushing issues, but believes that community engagement in a small and discreet format matters.

"The environment and culture around you dictate what you can and can't do. At a large law firm, you have to bill time and have less freedom. But there are ways. For example,

you can spend an hour a week working pro bono or getting involved in organizations that work on a certain issue. There are always people who can lead the way forward, and I believe and hope that they are also present at our large agencies.

Robyn Gigl works at a law firm in the state of New Jersey and is an activist focused on the rights of LGBTQ people. She has been a lawyer for 45 years and was a managing partner when she began her transition. But it wasn't until 2008, at the current agency, that her voice began to be heard — that was the year she came out as a trans woman.

"That process inspired me to get more involved in the community. There aren't that many lawyers who are transgender and have those experiences. The personal journey can have the same value as the legal knowledge, because one has the actual experience of the effects of the law.

Robyn Gigl writes books and participates in the public debate around LGBTQ issues. In her case, it is difficult to distinguish between what influenced her legal work: her participation in the public debate or that she is a trans woman.

"When I first came out, I lost some clients, and people who had previously recommended me stopped doing so. There were some consequences for me. But I was allowed to continue as managing partner until we closed the firm six years later. At the new firm, one of the partners is gay, so we have a lot of openness there. So I wouldn't say my activism has hurt my career. In addition, it enriches me as a human being that I try to help others.

She distinguishes between her work at the agency and her passion for LGBTQ issues — even if they sometimes run into each other.

"During the day, I'm a lawyer and help my clients. My activism belongs to leisure time and is not part of how most of my clients see me. Then there are some clients who have contacted me because of my involvement in these issues.

Robyn Gigl is aware that not everyone is at an equally tolerant agency — or in an equally tolerant state, for that matter.

"If I were to stand up for the rights of LGBTQ people in a part of the country where people are more intolerant, it could mean that clients left the firm. And if your employer loses business because of what you do, they probably tell you to stop your activism, or to quit the firm. Not all lawyers have the same opportunity to make their voice heard on different issues. Both the employer and the political climate in the state decide.

There are also lawyers in the United States who hold positions that require them to maintain neutrality, such as those who work for the attorney general or for the judiciary. Robyn Gigl sees how activism in the United States nevertheless has a historical anchorage.

"Go back to the 1950s and you'll find a lot of lawyers who were involved in the civil rights movement. Lawyers were also engaged in, for example, gender equality long before the LGBTQ movement gained momentum. I'm sure there are also even earlier examples of how lawyers have combined law with advocacy," she said.

Robyn Gigl is certain that community involvement among lawyers is something that has increased.

"This applies not least to lawyers who work for organizations that devote themselves entirely to certain issues and devote their careers devotedly to activism. It is somehow embedded in how the United States works, that issues that activists engage in can be changed via law and legislation.

Michael Meltsner is a lawyer and law professor at Northwestern University and has written the book "With Passion: An Activist Lawyer's Life." He has long been involved in the civil rights movement and has primarily worked for organizations specialized in those very issues.

"When I graduated in 1960, I said I wanted to work for the American Civil Liberties Union, but was told they already had a lawyer — today they have hundreds.

But Michael Meltsner also has examples of when participation in the debate goes along with work at a large agency.

"One example is the attempts to legally regulate what happens at Guantánamo. Many of those who have gotten involved are agency lawyers who were so upset that they felt they needed to do something. In addition, many firms in the United States have pro bono work. Of course, it's easier to implement any type of activism in blue, democratically governed, states than in red, conservative, and that's also why most NGOs are in urban areas like New York.

Why do you think so many lawyers are also activists in the United States?

"It's a place where a lot is decided in courtrooms, and it's opened up a lawyer-driven culture. It is different in countries like Sweden, where the entire public debate does not rest on different bills and where you do not have an equivalent to the Supreme Court here in the United States.

A. Scott Bolden, a partner in Reed Smith LLP, one of America's largest law firms, is himself frequently seen on television channels such as CNN and FOX with his advocacy. He has previously led the District of Columbia's Chamber of Commerce in Washington and had his own radio show, representing a number of nonprofits. He is almost surprised by the question of whether, as a lawyer at a large firm, one can simultaneously be involved in debates and community development.

"The short answer is: Of course you can. It depends, of course, on the degree of activism and how to define it. But in the U.S., lawyers are on the front lines when it comes to change, because there's always a legal component. Lawyers don't lose their freedom of speech because they work for a large firm. "Of course, you have to be vigilant about conflicts of interest, but I've never seen an example of the agency having had a problem with someone's involvement, it's quite the opposite – most agencies encourage a certain degree of activism," he said.

A. Scott Bolden himself is affiliated with the Democratic Party, and he is happy to comment on political and legal issues in the media.

"I do that in my own name, not in the agency's. My parents were civil rights activists, so for me, activism is at heart. Of course, there are risks, clients may not agree with your views, but I see it as on the other hand, there are risks in not doing everything you can to improve society, legally, socially and politically. The U.S. has changed a lot in the last five, six years, I don't think anyone can stand on the sidelines.

As an example, he cites the recent election's aftermath with Donald Trump in the lead. The death of George Floyd has also raised an increasing need to pursue issues in the United States, according to A. Scott Bolden.

"Being social engineers is part of lawyers' mission: to change laws, lead change, even to defend the status quo. Lawyers are a central part of democracy.

Tyler Maulsby, chairman of the New York Bar Association's Professional Ethics Committee, emphasizes that the First Amendment to the U.S. Constitution – on free speech – is incredibly strong. In addition, the Code of Ethics of Lawyers in New York encourages lawyers to get involved in improving the law, which is open to interpretation.

- Activism and political speech are subjective words. There are absolutely risks when lawyers go too far in their opinions and it goes beyond the law. It is for the court to decide where the line is, but we are very cautious about disciplining lawyers for their political activities unless it is clearly an overreach.

As an example, he cites Trump's lawyer Rudy Giuliani, who has been banned from working as a lawyer after, as Tyler Maulsby puts it, "abused his lawyer's license by

spreading lies." But in most cases, it is difficult to set a line between right and wrong, seen from an ethical perspective.

"It's a huge grey area. It should also be remembered that the outcome of a trial would be different in the fifty different states, says Tyler Maulsby.

But there are also positions that lawyers can make that are not covered by the code of ethics.

"For example, we have law firms that are now renouncing clients who have links to Russian authorities. It's a business decision that agencies make, that they don't want to be associated with that kind of client because of the ongoing war. It is political, but not necessarily an ethical issue – it can also be a decision based on a calculation that you otherwise risk losing other clients instead.

Admittedly, agencies as a whole take a stand on issues at times, but most often it is about individual individuals. There, it is often the employer, and not an ethics committee, that sets the boundaries – for example, someone who works for an organization that works for a certain issue cannot speak in the opposite way as a private individual, and agencies may have opinions about employee advocacy alongside work at the firm.

"If you look at the big picture, activism happens because so much change in the United States is happening through different courts changing the law. It's been that way for hundreds of years. Therefore, lawyers' community involvement is often great and so intertwined with the legal work that it can be difficult to separate, says Tyler Maulsby.

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