Election Debacle Offers Students Real-Life Lessons

In the closing weeks of the presidential campaign, law school Professors Sherrilyn Ifill and Larry S. Gibson watched with more than casual interest. The neck-and-neck race provided real-life drama to the classes they were teaching in voting rights and election law. And as news of ballot and registration problems began to surface, both professors realized they could throw away the textbooks.

"It certainly changed my syllabus," says Gibson, who was teaching election law. "We usually deal with contested elections for half a class, but it dominated our discussions for the rest of the semester."

In Ifill's seminar on voting rights, student discussions moved from voting and citizenship to in-depth reviews of the candidates' complaints and briefs.

"It's always interesting to watch political lawyering, which is very different from regular lawyering," Ifill explains, noting that the attorneys pursued strategies that may have seemed unusual but were wise politically. She adds that election irregularities happen all the time, and no one notices; yet she is happy that people now recognize there are problems with the system.

"It's wonderful for people to pay attention to the Constitution and how we elect our president," she says. "It shows that every vote does count."

When the first appellate arguments were broadcast, Gibson held class in his home so the students could watch the proceedings on his wide-screen television. Three local TV stations arrived to interview the students as they discussed the day's events. Both Gibson and Ifill were highly sought after by the media and appeared on CBS and NBC nightly news, CNN's "Burden of Proof," the Black Entertainment Television network, every local television station and several radio stations.

"There was an enormous amount of material to be digested and analyzed," Ifill says, noting that her assistant spent hours online pulling briefs, judicial decisions and local press accounts so that Ifill could stay on top of the latest developments.

"It was important to throw out the script and allow [the students] to feel the vibrancy of the legal system in motion."

"It was the election law professor's 15 minutes in the sun," Gibson adds laughing. Brian Shea, of the University's media relations office, coordinated the coverage and noted that all the attention showed the public that professors don't just read journals and teach class.

"They give perspective on current events and make sense out of confusing issues," Shea says, adding that both professors' passions about what was happening made them attractive to the media.

As the controversy came to a close with the Supreme Court decision, Gibson muses on changes needed in the country's election system.

"Some apparatus should exist to eliminate both under-voting and over-voting," he says. Under-voting happens when a voter doesn't vote for anyone in a certain race. Over-voting happens when a voter selects more than one person for the same office, thus invalidating the ballot.

"The machinery would not let you vote for more than one candidate or it would give you a warning if you didn't vote for any candidates," he says. Gibson also feels that no voter should be turned away at a polling place even if his or her name doesn't appear in the voting lists.

"With our decentralized voter registration system, inaccuracies happen," he notes. "We need a fail-safe system to ensure that everyone who wants to vote can do so."

"It was an important legal moment," Ifill says of the weeks of suits, counter suits and ever-changing strategies. "The students really wanted to talk about what was happening. It was important to throw out the script and allow them to feel the vibrancy of the legal system in motion."

Betty Lynne Leary
Town Meeting Profiles Racial Profiling Practices

On Nov. 1, 2000, six law school student organizations sponsored a Town Meeting on Racial Profiling, emphasizing the need to stop law enforcement personnel from using racial stereotypes to treat people as potentially guilty. Three major networks covered the town meeting; it was the lead story on the FOX Network’s local “Ten O’Clock News.”

In planning the town meeting, student organizer Thereen Daley’s desire was to engage panelists and attendees in a discussion about racial bias in police practices and to explore what can be done to stop this type of injustice. “The town meeting’s goal was to inspire the audience to make their voices heard,” explains Daley.

“And although the television coverage was wonderful,” she continues, “the success of the town meeting was not based on the coverage it received. The diversity and charisma of the panel and the enthusiasm and passion of the audience made the event a success.”

The meeting was moderated by University of Maryland School of Law Alumni Association President, the Hon. Andre M. Davis ’78. The panelists included: the Hon. Lisa A. Gladden ’91, a representative of Maryland’s House of Delegates from the 41st District in Baltimore City; Bill Mertens, counsel for racial profiling victim Robert Wilkins and the American Civil Liberties Union Board of Governors; Beltran Navarro, Latino advocate and former chairman of the Mayor’s Committee for Hispanic Affairs in Baltimore City; Dr. Ella Forbes, professor of African American Studies at Temple University (Philadelphia) and founder of Mothers Organized Against Police Terror; Det. Terrance Wansley, a New York City police officer and co-founder of 100 Black Men in Law Enforcement Who Care; and Vincent Eng, an attorney and legal director of the National Asian Pacific American Legal Consortium. In addition, there was a performance by Poet Atif Salem.

The panelists, each well-versed on the issue, expressed extremely different views on combating America’s racial profiling problem. Gladden, in cooperation with Gov. Parris Glendening, is sponsoring the most comprehensive racial profiling bill to ever reach Maryland’s House of Delegates. She expressed a need for working through the system. On the other hand, Forbes, whose son was killed by Pennsylvania police on Jan. 10, 2000, preached revolution. Echoing words similar to those spoken by activists of the 1960s and ’70s, Forbes shocked the audience and panel with her emphasis on overthrowing the government as a means of demanding racial equality.

According to Professor Larry Gibson, who attended the meeting, it is important for students to be sensitive to and understand the racial profiling issue. “These students, in their future careers as lawyers, judges, policy-makers, and government officials will play significant roles in making and enforcing laws to end racial profiling,” Gibson explains.

The Town Meeting on Racial Profiling was sponsored by the ACLU Maryland Law Chapter, the Black Law Student Association, the University Student Government Association, the Latino Law Student Association, the Asian Pacific Law Student Association, and the Maryland Public Interest Law Project, Inc.

Thereen Daley

Left: The Hon. Andre M. Davis ’78 and Bill Mertens participate in panel discussion. Far left: Thereen Daley, third-year day student, organized the town meeting. Above: Vincent Eng and Beltran Navarro were also members of the panel.
Panel Addresses DNA Evidence and the Death Penalty

In 1985, Kirk Bloodsworth was sentenced to death for the brutal rape and murder of a Baltimore County third-grader. A Maryland fisherman, Bloodsworth spent almost nine years in jail before DNA evidence proved his innocence. He is one of 10 inmates in the United States freed from death row because of DNA tests.

Despite the reliability of DNA technology, inmates in the District of Columbia, Maryland and Virginia are not guaranteed access to DNA evidence testing, which can determine whether they were wrongfully convicted. Bloodsworth would not have been granted a request for testing if not for the generous post-conviction work and out-of-pocket expense of now D.C. Superior Court Judge Robert Morin. Many inmates who do not have such assistance are left to wonder if evidence that could exonerate them will ever be examined and even if it still exists.

On Oct. 18, 2000, the American Civil Liberties Union (ACLU), Maryland Law Chapter, sponsored the conference “The Death Penalty, DNA, and Innocence,” to examine these issues and explore possible approaches to solving the problem of wrongful convictions. One possible solution, the Innocence Protection Act, a bill that would expand the availability of DNA testing to inmates and prohibit the destruction of evidence, probably will fail to gain enough Congressional support to pass.

In addition to Bloodsworth, four distinguished panelists shared their wisdom: Jayne Miller, chief investigative reporter with WBAL-TV; Michelle Nethercott, public defender; Keenan Keller, minority counsel for the House of Representatives Judiciary Committee; and Cyril Wecht, MD ’62, coroner of Allegheny County (Pa.).

Miller covered Bloodsworth’s story as it unfolded in 1984. At the conference, Miller kicked off the discussion and introduced Bloodsworth with a razor-sharp recollection of the facts of the case coupled with compassion for his situation. Just days after appearing on “The Oprah Show,” Keller and his boss, Rep. John Conyers Jr. (D-Mich.) are opponents of the death penalty.

“A Maryland fisherman, Bloodsworth spent almost nine years in jail before DNA evidence proved his innocence.”

Bloodsworth reminded attendees that anyone can be unjustly convicted of a crime, and he endorsed the Innocence Protection Act.

Nethercott, who oversees forensic training for the Office of the Public Defender and serves as a consultant and litigator in complex forensic cases, explained some of the subtleties of DNA evidence and spoke about relevant legislative proposals in Maryland.

Keller succinctly provided the Capitol Hill perspective, speaking about implications of the Innocence Protection Act and its current status. He also touched upon the potential for inequality of a national DNA database.


“We must do better to ensure that our legal system judges both guilty and innocent,” Keller said.

Karen H. Rothenberg and Nethercott identified a need for forensic training in law schools to better equip lawyers to deal with the emerging and ever-present use of DNA evidence in both criminal and civil law. Second-year student Kemmie King, vice president of community outreach for the ACLU, is working with the administration to design a legal forensic course at the law school.

Event co-sponsors included Amnesty International; the Black Law Students Association; the Criminal Law Association; the Maryland Public Interest Law Project, Inc.; the St. Thomas More Society; the Student Health Law Organization; and the University Student Government Association.

Professor Jerry Deise, who was chief attorney in the Capital Defense Division of the Office of the Public Defender, was instrumental in planning the event and served as the moderator.

Johanna Fortuna
New Director of Admissions Programs Seeks the Best and Brightest

Patricia Scott joined the law school staff as the director of admissions programs in September 2000. Scott previously was the University’s assistant director of financial aid. “I administered the Federal Student Loan Program and the Maryland State Scholarship Program,” Scott says. “I was delighted when I heard the job was available. I have always enjoyed the School’s atmosphere of camaraderie.”

As the director of admissions programs, Scott has several goals. The first is to increase the number and quality of applicants to the law school. “We want the best and the brightest and Patricia has the energy, drive and expertise to help us get them,” says Dean Karen H. Rothenberg.

Her second goal is to increase the visibility of the law school by heavily promoting it throughout the region. “We have to get our name out on the street,” Scott explains. “There are people who apply to Georgetown and George Washington University because they don’t know what Maryland has to offer.”

Scott will achieve this goal by strengthening alliances with Baltimore’s legal community, graduates and current students, Rothenberg explains. Scott also created the 2001 Recruitment Working Group, which will evaluate the effectiveness of the School of Law’s recruitment strategies. The working group, comprised of current students and recent graduates, will discuss the recruitment tools that Maryland and other law schools have in place. Scott is interested in members’ positive or negative reactions to recruiting methods and which methods, if any, ultimately influenced their decisions to attend the law school.

Scott’s third goal is to increase minority representation within the law school. “Our enrollment of students of color is about 24 percent. I would like it to be 30 percent by 2002, and then we can work from there,” Scott says. She plans to accomplish this by establishing partnerships with pre-law advisors at historically black colleges across the country and by encouraging Maryland residents who attend these schools to consider their state law school first. “We want to bring students who attend undergraduate school in New York, California, Michigan and other states to come back home for law school.”

Dean Rothenberg is impressed with Scott’s recruitment and outreach initiatives. “I see Patricia as a creative and innovative ambassador for the law school,” Rothenberg describes. “Her message is to emphasize the quality of our legal education and the diversity of our legal community.”

Associate Dean for Admissions and Registration James Forsyth agrees: “Patricia will reach out to prospective students even more than we have in the past. She speaks with interest, enthusiasm and knowledge about our programs, students and faculty.”

Scott believes that her background in student financial aid will be a unique asset in her new job, as well as a service to the law students. “I know the federal loan programs and which are most expensive. I can help students with their budgeting process,” says Scott. She also thinks her familiarity with the city of Baltimore and her experience in strategic marketing will help her sell the School and the city to prospective students. “I know the area and I know how to market it. I believe that our law school surpasses those of many other schools in the area and in the nation.”

Of the law school’s future incoming classes, Scott says they will be high-caliber and diverse: “The class will represent the make-up of the city of Baltimore, the state of Maryland and the nation—the strongest students from every race, creed, color, socioeconomic background, age and gender.”

Alumni Association Makes Gift to the Building Campaign

Dean Karen H. Rothenberg, posing with Alumni Association Board President Andre M. Davis ’78, gratefully acknowledges the Board’s decision to make a generous pledge to name the Office of Career Development in the new building. As Davis says, “The Association is not in business for itself. It made sense to give something back to the School that will forever link past and current students in a meaningful way. What better recipient of our gift than the Office of Career Development? Almost every student will utilize those services at some point during law school.” The Alumni Association’s generosity will be recognized by a plaque in the career development office.
Conference Explores Quality of Long-Term Care

While the demographics of the United States are increasing the need for adult long-term care, some are worried that the quality of that care is decreasing. On Dec. 5, 2000, the Law and Health Care Program coordinated a multidisciplinary symposium to examine issues surrounding long-term care.

"We wanted to explore all sides of the quality issue and some goals for the future," explains Joan O'Sullivan, assistant professor, who helped coordinate the symposium. "We also wanted to raise the issue of abuse of nursing-home residents, explore the business side of long-term care, and discuss underlying problems."

Speakers included Toby Edelman, of the Center for Medicare Advocacy, Inc., who has been a consumer advocate for more than two decades; Paul Bach and Malcolm Harkins, who presented issues from the perspective of the long-term care industry; Marie-Therese Connolly, of the U.S. Department of Justice, who coordinates the department's long-term care initiative; Casper R. Taylor, speaker of the Maryland House of Delegates, who discussed six bills passed in the state legislature that address the long-term care crisis; and Lynne A. Battaglia '74, then U.S. attorney for the District of Maryland, who discussed her personal and professional experiences with long-term care.

In addition, a panel mediated by John F. Lessner, of the health law group at Ober, Kaler, Grimes & Shriver, discussed the front-line worker crises, the nonprofit long-term care sector, and the history of long-term care financing.

The conference, notes O'Sullivan, "was successful. It was good to have some industry representation, because I think some of the consumer groups didn't know as much about the industry before as they do now."

O'Sullivan, who teaches in the School's health and elder law clinic, helped organize the conference, which also involved Dean Karen H. Rothenberg; Associate Dean for Faculty and External Affairs Diane Hoffmann, who also is acting director of the Law and Health Care Program; Nancy Zibron, coordinator of the Law and Health Care Program; and Lisa Ohrin '94, director of Practicums and Externships. Other sponsors of the conference included the Geriatrics and Gerontology Education and Research Program; the Martin B. Greenfield Fund; the Dr. Richard Heller Fund; and the Ober, Kaler, Grimes & Shriver Fund.

Papers written for the conference will be published in the spring 2001 issue of The Journal of Health Care Law and Policy.

Shawe & Rosenthal Prizes Honor Work in Fields of Employment and Discrimination Law

For the past four years, the Shawe & Rosenthal Prizes have been awarded to University of Maryland School of Law students who have done exemplary work in the areas of employment law and discrimination law.

The 1999-2000 Shawe & Rosenthal Prize for Employment Law was presented to James Neidermyer, a third-year student pursuing an interest in labor and employment law, under the guidance of Professor Marley Weiss.

Peter H. Burnstein '00 received the 1999-2000 Shawe & Rosenthal Prize for Employment Discrimination Law. Burnstein, an honors graduate, is currently clerking for Judge Ellen Hollander, of the Maryland Court of Appeals. As a law student, Burnstein served as articles editor of The Business Lawyer.

The Shawe & Rosenthal Prizes were established in 1997 in connection with the law firm's 50th anniversary celebration.

(From left): Third-year day student James Neidermyer and Peter H. Burnstein '00 accepts Shawe & Rosenthal Prizes from firm partners Earl Shawe and Bruce Harrison. They are joined by Dean Karen H. Rothenberg.
AB&A President-Elect Visits School of Law

Robert Hirshon, president-elect of the American Bar Association (ABA), the world’s largest professional organization, challenged current and future lawyers to improve the profession by balancing billable hours with pro bono services and by working hard to offer access to justice to all citizens.

“Law students are graduating more interested in making money than in making a difference,” Hirshon observes. He notes that recent graduates enter their professional lives with staggering debt, an average of about $70,000, a 40 percent increase since 1993. Young lawyers often choose high-paying jobs that require 2,500 to 3,000 billable hours per year; and those attracted to public interest work often can’t afford to accept a low-paying job in the public interest sector.

These increased demands in billable hours cause a decrease in the hours of pro bono service offered by lawyers, Hirshon believes.

A long-time advocate of pro bono work, Hirshon gained national recognition for his successful work to amend the ABA’s code of ethics to include pro bono standards that recommend lawyers do a minimum of 50 hours of free legal work each year.

As president of the ABA, with his one-year term beginning in August, his priorities include federal funding for legal services programs that aid low-income clients, protecting the judiciary from political attacks, ending the stalemate in federal judicial appointments, and protecting civil rights of immigrants.

In addition, his administration will meet the needs of fledgling attorneys through mentoring programs and expanded loan forgiveness opportunities on the national level for law school graduates.

Hirshon, a native of Portland, Maine, specializes in commercial litigation and legislative and regulatory advocacy at Drummond, Woodsum & MacMahon, a 35-member firm in Portland. He received his bachelor’s and juris doctor degrees from the University of Michigan. He was an editor of the Michigan Journal of Law Reform. In 1973, he was admitted to the Maine Bar and the U.S. District Court for the District of Maine. Four years later, he was admitted to the U.S. Court of Appeals for the First Circuit.

Amanda Milewski

Student Establishes MPILP Fellowship in Memory of Graduate and Cousin

Third-year student Jon Cardin knew that his cousin Michael Cardin ’93 was interested in helping the homeless and disadvantaged. He knew that Michael could relate to and empathize with people from all backgrounds and walks of life. But Jon didn’t know that community service was a fundamental part of Michael’s life.

It was only after Michael died suddenly in 1997, at the age of 30, that Jon realized helping the less fortunate was second nature to his cousin. “I knew that Michael did these kinds of things, but I didn’t know it was his life,” Jon says. “Michael didn’t think helping the disadvantaged was just a good thing to do, it was a way of life—a moral obligation.”

Jon Cardin greatly admired Michael’s unique qualities. “I don’t have that kind of patience...to work with people I can’t relate to, but with Michael, it was innate. It was just part of him.” Jon wanted to remember his cousin and his uncommon commitment to those less fortunate—ideally, in a way that would encourage people to perform community service the way Michael did.

In fall 2000, Cardin decided to establish a $3,500 fellowship in Michael’s name at the School’s Maryland Public Interest Law Project (MPILP) to benefit students who want to pursue public interest law careers. MPILP is a nonprofit corporation operated by School of Law students. One of its major functions is to provide grants to students who work with public interest law organizations that are unable to offer paid summer clerkships. These summer clerkships are seminal experiences and often determine the area of law in which a student will practice. Every year, MPILP funds approximately 17 to 22 full-time summer internships, depending on the success of the annual giving campaign and the annual MPILP auction.

To raise money for the fellowship, Cardin organized a daylong athletic event at which participants water-skied, rollerbladed, ran, swam and canoed. To participate, athletes had to find sponsors or sponsor themselves. “It wasn’t a race with a winner or loser, it was a way for people to challenge themselves,” says Cardin, “and, of course, a way to create a charity event in Michael’s memory.” Cardin hopes to raise enough money through this annual event to endow the fellowship within five years.

The fellowship funds are administered through the Michael Aaron Cardin Philanthropic Fund, which was founded by Michael’s parents, U.S. Rep. Benjamin L. Cardin ’67 and Myrna Cardin, and dispersed through MPILP’s student-run fellowship program.

Only MPILP students who work with the homeless and indigent, the group that Michael focused on and worked with, will be eligible. “The connection between Michael and MPILP was a natural one,” notes his cousin. “While Michael would never have forced his expectations on others, I saw the fellowship as a way to get people to follow his profound vision.”

“And I know that Michael would have respected MPILP’s mission.”

Danielle Sweeney
School of Law Co-Sponsors Public Interest Law Conference and Career Fair

For the third consecutive year, the School of Law co-sponsored the National Association for Public Interest Law (NAPIL) Conference and Career Fair. The national conference and fair, held in Washington, D.C. in October 2000, had as its theme, “Fostering Tomorrow’s Leaders: Creating Opportunities Today.”

More than 200 public service employers and about 1,000 law students from across the country participated in panel discussions on public interest topics such as postgraduate fellowship opportunities, recent developments in American Indian law, and the privatization of prisons.

Participating public interest law employers included the Southern Poverty Law Center; National Employment Law Project; the Legal Aid Society of the District of Columbia; the Center to Prevent Handgun Violence—Legal Action Project; and the Bureau of Consumer Protection. Employers conducted morning and afternoon interviews for summer internships as well as full-time permanent staff positions.

“The NAPIL Conference and Career Fair gives our students the chance to meet with national public interest lawyers and discuss the many ways they can make a positive difference in public service,” says Teresa Schmiedeler, director of Judicial Clerkships & Public Interest Programs.

Students also were able to meet other public interest law students from all over the country. “The conference is like a shot in the arm,” says third-year student and conference attendee Melinda De Atley.

“It’s inspiring to be among people who are involved in public interest law. [They] usually want to impact communities and help the little guy,” she notes.

Local law firms that helped the School sponsor the conference and fair include Ballard Spahr; Gallagher, Evelius & Jones, LLP; Linowes & Blocher, LLP; Miles & Stockbridge; Piper Marbury Rudnick & Wolfe, LLP; Saul Ewing; and Whiteford, Taylor & Preston, LLP.

Danielle Sweeney

Capetown Lawyer Discusses South African Amnesty Policy

A legal process that grants amnesty, not prison terms, to admitted criminals seems antithetical to most basic concepts about justice. Yet, the South African government’s Truth and Reconciliation Commission (TRC) was charged with accomplishing just such a task. Dumisa Ntsebeza, former chief of investigations for the Commission, described the controversial process to a group of faculty, staff and students on Nov. 30, 2000.

The TRC was formed to examine the gross injustices and violations of human rights that had occurred in South Africa under apartheid, from 1960 to 1994. Under a newly amended constitution, which included, for the first time, a bill of rights, the Commission sought to move the country from “a past of grave injustice to a future reflecting the equality of humanity.” With that goal in mind, the new South African government identified amnesty as one of the ways to heal the country’s collective pain and ensure continued stability.

Ntsebeza, who was responsible for investigating every allegation of human rights abuse brought before the Commission, explained the amnesty process to the assembled group. He noted that any South African who participated in human rights violations could petition for amnesty, although not every petition was granted. The Commission required each person to apply as an individual and to fully disclose specific details about every crime that had been committed. Those granted amnesty through the proceedings would face neither imprisonment nor civil liability. However, if the TRC did not grant amnesty, perpetrators could still be brought up on criminal charges.

For those in South Africa and abroad who criticized the Commission’s amnesty policy, Ntsebeza remarked that traditional prosecution and punishment were not the goals of the TRC. South Africa could have disintegrated easily into vigilantism and lawlessness, had punishment been the Commission’s major focus. Rather, the goal of the Commission was to facilitate healing. Victims and their families were heard. Perpetrators had to confess their crimes in nationally televised hearings. And the “New South Africa” managed to navigate a potentially turbulent governmental transition successfully.

Ntsebeza, who also is a former judge and former president of the Black Lawyers’ Association in South Africa, now works in private practice in Capetown, South Africa.

Karen Peairs

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On the Menu: a la Carte Legal Services

From Oct. 12 to 14, 2000, the Maryland Legal Assistance Network and 10 co-sponsors—including the School of Law—convened in Baltimore the first national conference on "unbundled" legal services. "Unbundled" legal services are to "total-litigation" services what a la carte menus are to prix fixe. You don't get it all—just what you pay for.

Not to say that unbundling somehow results in a lower quality of service, says Michael Millelmann, professor at the School of Law and keynote speaker at the conference. "We should really call it 'rebuilding,'" he explains. "The term 'unbundling' sounds like you're starting with the Cadillac version of law, and working your way down to a 1974 pickup. Unbundling lawyers begin on the defensive because it's assumed they're reducing the large-scale model of law to something less. But the model of

large-scale litigation has been driving people away from the courts for years. Unbundling appeals to consumers—they're sick of expensive, nasty and bitter ways of resolving disputes."

Millelmann cites a national study showing that 65 percent of people with legal problems chose not to bring them to court; in Maryland, the figure was 70 percent. "What pretends to be the Cadillac model is the model people are voting with their feet on, and rejecting."

The main thrust of unbundling, says Millelmann, is to provide timely services at reasonable costs. "I sat in on most of the sessions, and I heard from lawyers who care about helping people solve their problems. At its root, unbundling is an extension of the drive toward focusing on the needs of clients. It's a back-to-basics approach, because it's driven by the desire to serve the public rather than to advance the interests of the lawyer."

Herbert Garten '51, a member of the Maryland Legal Services Corp., discusses unbundling with a fellow panelist.

cessfully."

Conference attendees included private attorneys, legal services provider staff, judges, court administrators, law professors and mediators.

A spring issue of Family and Conciliation Courts Review Journal will feature unbundled law as its theme. In addition, the American Bar Association's Law Practice Management Section recently published Unbundling Legal Services: How to Deliver Legal Services a la Carte for Improved Service and Profit. More information on unbundling and on the October conference is available at www.unbundledlaw.org.

Nancy Volkers

Reception Celebrates Diversity of Judiciary

Mary Ellen Barbera '84, legal counsel in the governor's office, Marvin H. Masterson '94, deputy secretary of state, Dean Karen H. Rothenberg, and Gov. Parris Glendenning celebrate the diversity of Maryland's judiciary at an event at the governor's house in February.
How Much Does Appearance Count?

Should a law be judged as constitutional based on what it does, or what it expresses? Or what laws express, not just what they do or accomplish. “We typically judge whether a law is constitutional by what it does. Increasingly, there are areas where it is not what the law does, but what it expresses that determine its constitutionality,” says Deborah Hellman, associate professor at the School of Law. Hellman gives an example of a city putting a nativity in front of the town hall during the Christmas holiday. That display expresses that the city is endorsing one particular religious view, she says. “The question is, should that expressive aspect of a law be used in judging whether a law is permissible?”

The following papers were presented: “Group Minds and Expressive Harms,” Simon Blackburn, Edna J. Koury Distinguished Professor of Hellman, associate professor, University of Maryland School of Law; “Measured Endorsement,” Andrew Koppelman, professor of law and political science, and Shari Seidman Diamond, professor of law and psychology, Northwestern University.

Participants had an opportunity to review the five papers online prior to the conference. The program began with one scholar critiquing each paper. These commentaries were followed by replies from the papers’ authors.

The goal of the symposium was for attendees to look at the expressive dimension of law in a broad way, and not just within the confines of their particular fields of law, Hellman explains. “Typically, scholars have looked at this issue narrowly, according to their doctrinal field.”

By Appearances: Professional Ethics, Expressive Government, and the Morality of How Things Seem,” Deborah Hellman, associate professor, University of Maryland School of Law; “Measured Endorsement,” Andrew Koppelman, professor of law and political science, and Shari Seidman Diamond, professor of law and psychology, Northwestern University.

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