The SALT EQUALIZER

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COVER CONFERENCE A GRAND SUCCESS

A Report from the Tenth Annual Robert Cover Public Interest Law Conference In New Hampshire

– Keith Custis, student
Boston College Law School

The Robert M. Cover Public Interest Law Conference was held in early March in southeastern New Hampshire. Once again, the Society of American Law Teachers subsidized a major part of the conference, with additional financial help coming from several schools where deans or faculty were friends of Bob Cover. Now in its tenth year, the organizers of the 1997 conference continued the tradition of giving students, practitioners and academics the opportunity to discuss issues affecting the practice of public interest law and to form connections with others dedicated to working in the public interest. During its first nine years, this conference has attracted approximately 1,000 public interest practitioners, students and faculty from around the country. This year's conference drew over one hundred participants from twenty-four law schools and eighteen states.

The conference is named in the honor of Robert Cover, a civil rights activist and Yale law professor. While working in southwest Georgia in the 1960s, Cover organized and registered African-Americans to vote and to protect their civil rights. He was arrested for his civil rights activities, spending several weeks in jail. Robert Cover conceived of the idea for the conference shortly before his sudden death twelve years ago. He envisioned an annual retreat that gathered public interest lawyers and law students together and provided a forum to develop ideas and strategies for social change.

Participants in this year's conference, entitled *Without a Net: Public Interest Practice in a Mean-Spirited Age,* discussed the impact of recent budget

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A DIVERSE SALT BOARD MOVES AHEAD ON SEVERAL FRONTS

– Joyce Saltalamachia
New York Law School

SALT Board members and officers gathered together on April 13 at NYU School of Law for the regular Spring Board meeting. While the majority of the Board meeting was devoted to discussing the successes of the "Haywood Conference" (fully reported inside this issue) and planning for future events to continue the message of the conference, the thirty board members attending the meeting also had regular Board business to discuss.

President **Linda Greene** announced that Board member **Juan Perea** had decided that other time commitments did not allow him to participate as fully as he would like to on SALT Board business and that he had regretfully tendered his resignation. Juan's contributions to SALT governance and activities have been greatly appreciated in the past, and the Board reluctantly accepted his decision. It was decided to offer the vacant position to **Sue Bryant** in recognition for her outstanding contribution to SALT programs and activities over the years as well her enormous effort on the previous weekend's conference. Sue will fill Juan's remaining term which expires in January 2000.

Howard Glickstein, co-chair of the Finance Committee with **Scott Taylor**, reported on SALT's financial condition. SALT relies primarily on membership dues for its operating budget and uses the annual banquet as well as teaching conferences to publicize SALT activities and gain new members.

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"Affirming Action and Reconstructing Merit"

FULL CONFERENCE REPORT!

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cuts and legislation on the future of public interest advocacy, the difficulties that public interest practitioners face in financing their legal practice, the personal rewards of public interest practice, as well as the importance of public interest law for our communities. Through a variety of panel discussions, break-out groups, speeches and informal discussions, the participants formulated strategies for practicing public interest law and formed connections with other lawyers and law students dedicated to the practice of public interest law.

Attendees uniformly appreciated the opportunity to retreat to the New Hampshire woods for a weekend. **Jessica DeGroote**, a third-year student at the University of Mississippi School of Law and its first student to attend the conference, declared that she found the conference so helpful that she would make certain more Mississippi students attend in future years. Attending the conference for his fourth time, **Luke Cole**, general counsel for the Center on Race, Poverty and the Environment and a staff attorney for the California Rural Legal Assistance Foundation, recounted how his experience as a student attendee at the conference provided him with the inspiration and ideas to forge a new area of public interest practice, environmental poverty law. **Terri Gerstein**, an attorney with the Florida Immigrant Advocacy Center and a former organizer of the Cover Conference found the conference "tremendously energizing" and hopes to attend in future years.

". . . Without a Net: Public Interest Practice in a Mean-Spirited Age . . ."

SALT members are urged to tell students interested in public interest law about the Robert Cover Public Interest Conference. One practitioner, who had spent a few years working in a law firm before becoming executive director of a legal services organization, wished that she had simply known about the Cover Conference when she was in school. SALT members are also urged to help students obtain funding to attend this wonderful public interest happening, which every year helps recharge the public interest commitment of students and practitioners, serves as an informal job fair, and addresses the crucial issues of our times. ■

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Nonetheless, we expect to have a reduction in our reserve fund at the end of this year. The annual dinner generally loses money because we are required to pay for meals for people who reserve spaces but do not show up. In the future we may consider having a limit on the number of seats available at the annual banquet in order to prevent the number of no-shows. In addition, along with sponsoring its own programs and events, SALT also provides seed funding for programs and events of allied organizations such as the Women and Law Conference and the Native American Clinical Conference. Howard reported that the Finance Committee felt that it was important for SALT to have additional funding beyond member dues so that our financial support for those worthy events can be even more vigorous. To this end, Howard, Linda and in-coming co-president **Phoebe Haddon** have arranged to meet with local New York law school development professionals to discuss possibilities for SALT to raise more revenue through foundation grants, government grants and other means. Any activities in this area will be reported to the membership in future issues of *The Equalizer.*

Cynthia Bowman reported on the very successful "Haywood Conference," held the prior two days at CUNY School of Law. The bulk of the discussion centered around how to build on the information and energy gained from the conference to devise a plan of action for the future. It was suggested that our Fall teaching conference, "Bridging the Gap Between Clinic and Classroom," should also have a component discussing affirmative action and that the annual Cover Study Group in January could also target this topic. We expect that accomplishments from this conference can be a foundation for SALT action for the next two or three years.

Phoebe Haddon led Board members in an exercise to plan future SALT action building upon the weekend's conference. An action committee coordinated by Sue Byrant, with task forces on Admissions led by Phoebe Haddon, Curriculum and Practice led by **Lisa Iglesias**, and Political Organizing led by **Margaret Montoya** and **Sumi Cho**, has been established. Concentrating on the notion of political organizing and the need for an action campaign for the future, the Board then broke into small groups to brain-storm for ideas on actions and activities at the January AALS meeting in San Francisco. All groups thought that California would be an ideal location for our theme of affirmative action and that SALT must take a lead in the legal academy in publicizing the

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SALT's "HAYWOOD" CONFERENCE
Affirming Action and Reconstructing Merit
CUNY School of Law
April 11-12, 1997

SALT and CUNY SEEK TO RE-CHART THE COURSE TOWARD DIVERSITY

– Paula C. Johnson
Syracuse University College of Law

On April 11-12, 1997, over 100 students, faculty, administrators and practitioners gathered at CUNY School of Law to attend the SALT conference, "Affirming Action and Reconstructing Merit." The conference was co-sponsored by CUNY and the Haywood Burns Chair in Civil Rights. The impetus for the conference was SALT's determination to refocus the legal and public debate on affirmative action and diversity in the wake of *Hopwood v. State of Texas* (5th Cir., 1996) and the passage of Proposition 209 in California. In *Hopwood*, the Fifth Circuit proscribed the use of race as a criterion in law school admissions in order to achieve diversity after white applicant **Cheryl Hopwood** challenged the denial of her admission to the University of Texas School of Law. Proposition 209, a November 1996 California ballot initiative, sought the elimination of affirmative action programs in public colleges and universities and other public institutions. A district court injunction against the implementation of Proposition 209 was reversed by the Ninth Circuit Court of Appeals in April 1997.

SALT organized the conference in response to the real and portentous dangers of these decisions to extend beyond the Fifth Circuit and California. However, while *Hopwood* and Prop. 209 were catalysts, the conference was conceived as a proactive stance against the intensified attacks on affirmative action and diversity goals in recent years. The mood at the conference was simultaneously somber and celebratory. The importance of policies which promote diversity, equality and progress in our society and our profession prompted us to meet at CUNY to strategize, console, coalesce and recommit to the struggle to preserve affirmative action programs.

CUNY School of Law proved to be the ideal location to launch SALT's action agenda. Despite early qualms about CUNY's accessibility, it immediately became apparent that CUNY was the most appropriate place to initiate this effort. In so many ways, CUNY embodies the very premises, struggles and successes that underlie diversity goals in the legal profession. Moreover, the corridors of the law school were imbued with the spirits of **Haywood Burns** and **Shanara Gilbert**, lending more poignancy and power to our task. Hence, in our proactive mode, the conference was defiantly and affectionately called the "Haywood Conference."

Members of the planning committee deserve special recognition for their work. **Cynthia Bowman**, Chairperson (Northwestern), **Susan Bryant** (CUNY), **Sumi Cho** (DePaul), **Phoebe Haddon** (Temple), **Lisa Iglesias** (Miami), **Margaret Montoya** (New Mexico) and **Frank Valdes** (Miami) organized a conference that was focused and complementary in every facet. Each plenary, keynote address and working group contributed to the atmosphere of purpose, knowledge and community. In addition, special thanks go to the entire CUNY Law School community for its generosity of time and effort on behalf of conference participants. The Caribbean students provided delicious lunches for us, and administrative assistant **Lisa Carbone** handled numerous pre-

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conference and on-site logistics.

The conference was opened by greetings from CUNY School of Law Dean **Kristin Booth Glen** and SALT President **Linda S. Greene** (Wisconsin). They were followed by Judge **Nathaniel R. Jones'** dedication of the conference to Haywood Burns. Judge Jones, of the Sixth Circuit U.S. Court of Appeals, is the first holder of the Haywood Burns Chair in Civil Rights.

Mari Matsuda's (Georgetown) keynote address captured the mission of the conference in her appreciation that "[the conference] was a place to say there *is* racism, sexism, homophobia and not be characterized as uncollegial." Matsuda addressed the misinformation generated by opponents to affirmative action. These familiar myths are insidious by their widespread acceptance in policymaking and public discourse. Noting that op-ed writers suggest that affirmative action policies are hurting less privileged white males,

"CUNY embodies the very premises, struggles and successes that underlie diversity goals in the legal profession."

Matsuda acknowledged, "there *is* pain for white men." "This pain," she asserted, "is *not* caused by affirmative action." Matsuda assailed the message communicated by affirmative action opponents that others "do not belong here." This message is expressed by lowered expectations for women and students of color. Further, the myth that affirmative action provides opportunities for the unqualified was challenged as masking a reality in which persons from diverse backgrounds were overqualified for positions. Finally, the myth of meritocracy

was exploded by recognizing that 99% of people get jobs because they know someone or are in a position to get jobs for someone.

Matsuda ended with a call to action to change the culture and discourse on affirmative action. She urged participants to build coalitions across disciplines in the academy and with grassroots organizations. Diversity increases knowledge. As Matsuda noted, "We cannot be isolated and lose learning from the diversity of world views." Before concluding, Matsuda movingly recalled having benefitted from affirmative action and paid homage to those who preceded her in this struggle. Mari Matsuda's remarks set the tone for the conference by recognizing the continuous and interconnected struggles and strengths of many marginalized and excluded peoples.

At the first plenary, "The Visions Panel," **Julie Su**, Asia Pacific American Legal Center of Southern California; **Barbara Aldave**, St. Mary's University School of Law; and **Lani Guinier**, University of Pennsylvania School of Law, offered transformative visions of legal practice, law school and the legal order. Julie Su began by describing her center's representation of Thai and Latina sweatshop workers in California. Effective lawyering on behalf of the women required skills that were not emphasized in her law school experience. During law school, the admonition to "think like a lawyer" had little meaning for her. After law school, she found her approach to lawyering to be an asset. Su discovered that successful lawyering required strategizing *with* clients, not simply arguing a legal position abstractly. It required greater

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engagement in clients' lives and the flexibility to literally meet them where they lived. Su observed that "sharing in the lives of clients means learning more." On the value of diversity in legal education and law practice, she declared that it meant "challenging norms, fighting the system and creating greater possibilities."

With inimitable wit, Dean Barbara Aldave described her perspective as derived from St. Mary's location "on the buckle of the *Hopwood* belt." Her vision for the new law school included attacks on the notion of meritocracy. Accordingly, Aldave called for an end to overreliance on the LSAT in favor of alternative standards for admission. In reconstructing the law school, she said that the proper questions were, " Who should be taking what to whom and for what purpose?" To

this end, law schools must stop their risk aversiveness and cease privileging white males. Instead, law schools should include diverse groups of people to shape the rules and should prepare students to work for justice. Aldave further observed that it

"Diversity increases knowledge . . ."

was "easier to shape admissions policies than to shape faculties," which led her to suggest consideration of abolishing tenure. This latter proposal was met with reserve, although Aldave added that a new set of faculty qualifications would include legal practice skills and the ability to relate across cultures. Finally, she suggested that institutions like CUNY, with its use of alternative admissions

criteria and curriculum innovations and public service focus; Temple University, which long has employed alternative admissions criteria; Northeastern University, with its emphasis on cooperative experiential learning; and the University of Maryland, which incorporates clinical education in the first-year curriculum, provide examples from which to transform legal education. Aldave declared that the time has passed for modest critiques in defense of affirmative action. Nothing short of the complete transformation of legal education is now necessary.

". . . institutions like CUNY . . . Temple . . . Northeastern . . . and . . . Maryland . . . provide examples from which to transform legal education."

Professor Guinier began by explaining that Cheryl Hopwood's discrimination lawsuit was based on the false conclusion that the race-based affirmative action policy at the University of Texas School of Law was the reason for her admission denial. Properly understood, the real reason for Hopwood's rejection was the "penalty" for attendance at community colleges and state schools, and gender bias. The traditional measures of LSAT scores and GPAs reward attendance at elite private institutions and are indicia of wealth, not ability. Guinier then addressed the inherent limita-

tions of conventional measures for law school admission. She pointed out that the LSAT and other standardized tests prize the ability to "guess," that is, "to make decisions based on less than perfect information." Thus, Guinier denounced this "testocracy" as the sine qua non of meritocracy.

Guinier asserted that conventional models of legal education do not prepare students for lawyering in the 21st century. Legal education should train lawyers for "deep thinking" rather than "quick thinking," toward the resolution of complex problems. Problem-solving requires collaboration and creativity, the accommodation of diverse viewpoints and collective decision-making – in short, it requires inclusion.

We broke into our first small working group session after the plenary *[See Elvia Arriola's article on page 6 herein.]* and then returned to the

auditorium for the second plenary, "Current Battlefronts." The afternoon session proved to be as invigorating as the morning session had been. The second plenary focussed on recent battles against initiatives that were designed to undermine affirmative action programs and to curtail greater participation by diverse peoples in our society. Thus, the focus was on events in California and the Fifth Circuit. The plenary was opened by **Arthur Chaskalson**, President Judge of the Constitutional Court of South Africa. Judge

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Chaskalson drew upon his personal working relationship with Haywood Burns and paid tribute to Haywood's and Shanara's memories. While many U.S. human rights activists and legal scholars offered suggestions for the cause of South African democracy, Judge Chaskalson's comments made clear that the U.S. has much to learn from South Africa on issues of justice and social parity. Reading from the newly-ratified South African constitution, Judge Chaskalson noted that it contained numerous procedural and substantive rights that are absent in the U.S. constitution. Thus, in addition to a commitment to equality on the bases of race, gender, sexuality, language and religion, the South African constitution also recognizes substantive material rights such as housing, food and water. These attributes make the South African constitution the most advanced in the world in terms of its commitment to social justice.

Teresa Bustillos, Vice President of Legal Programs for MALDEF, discussed the lessons that were learned from the battle over Proposition 209 in California. Bustillos discussed how Prop. 209 proponents counted on the collapse of the coalition between women, people of color, gays and lesbians, and civil rights activists. She conceded that "they were almost right." She found that the danger of the coalition's disintegration was largely because the issues and interests surrounding Prop. 209 were not so clear. In addition to the confusion over positions, difficult choices were made in the strategies to fight Prop. 209. For example, it was thought that after the earlier Prop. 187 anti-immigration ballot initiative, opponents could not afford to have the face of a Latino/a represent the opposition to Prop. 209.

Polls indicated that the majority of Californians, including people of color, favored Prop. 209. However, this conclusion was based on a deceptively positive wording of the initiative and misleading campaign techniques by the proponents. Many may recall the use of Dr. Martin Luther King, Jr.'s words to support the initiative as the nadir of that campaign. Yet when pollsters more accurately re-phrased the initiative in terms of dismantling affirmative action programs, most people voiced their opposition. Similarly, public opinion polls had shown that African-Americans had supported Prop. 187 in large numbers, yet Bustillos discovered that when discussing Prop. 209 in African-American churches, many African-Americans had not understood Prop.187 as a civil rights issue until Prop. 209 was initiated. Thus, an important lesson was learned in these communities of color: the need to articulate the impact of such measures on individual communities and the need to understand the impact of such measures on communities that are different from one's own. In this way, successful collective work can be accomplished.

The biggest problem with the affirmative action debate is the words people use either to attack or defend it as a concept. One of the most exciting exercises during the SALT conference involved putting a group of law professors in a room and getting them to identify the familiar string of rhetorical phrases on both sides of the affirmative action debate. The goal of the exercise was to examine the discourse and to literally change our perspective by introducing into our own consciousness and the public discourse a questioning of the assumptions most people think of as "resolved," such as the assumption that our institutions, as they exist now, function as fair and effective meritocracies. And so we sat in the room and uttered the familiar attacks – that affirmative action equals unqualified, is anti-merit, benefits the wrong people, pits the group against the individual, implements bad law, doesn't promote true diversity, violates the enshrined principle of "colorblindness," nurtures feelings of stigma in people of color, hurts white men and is generally a failure in all respects. And we uttered the familiar line of response and reaction which we somehow know in our gut doesn't get to the heart of the issue: that we need affirmative action because diversity benefits everyone, that the traditional standards don't work for minorities, that affirmative action provides role models for minority communities, that people who benefit from affirmative action clearly defy the stereotypes about their abilities, that it is the counterpart to the affirmative action of the rich helping the rich, and that it compensates for past wrongs and hidden biases in existing structures.

The room in which I sat filled one chalkboard with two columns of traditional attack and response words and phrases, and then, making a literal metaphorical shift, our facilitator walked the room to another chalkboard on which were began to do the hard thinking towards "reconstructing merit." First on that list appeared the words "redefine merit." **Lani Guinier**'s morning presentation, based on her recent writing on the future of affirmative action encouraged us to look hard at that traditional debate which she had argued isn't being heard. It's not being heard because it's not asking what is at the bottom of merit. Who truly benefits under a system of ranking and predicting merit that in theory fits everyone and in practice only benefits those who are able to pay for a cer-

Professor **Marina Hsieh** of Berkeley, whose extensive civil rights practice background made her feel like an "interloper academic," discussed the number of law professors involved in the various challenges to the California initiatives. Hsieh observed that while the involvement of law professors all over the Prop. 209 debate signalled tremendous legal talent, it also clearly evinced a need to adopt additional strategies, not just legal ones. Hsieh cited estimates projecting that the end of affirmative action at UC-Berkeley would reduce the admission of students of color from 25% to 4% of the student body.

Hsieh also provided in-depth analysis of the court challenges to Prop. 209. In 1996, the District Court for the Northern District of California granted a temporary restraining order and a preliminary injunction against implementation of Prop. 209. District Court Judge **Thelton Henderson** found that the plaintiffs were likely to succeed on the merits because the initiative violated the equal protection clause and the supremacy clause of the United States Constitution. Moreover, Judge Henderson found that the equal protection clause was violated on the basis of political barriers that were targeted against women and people of color, as proscribed in *Hunter v. Erickson* (1969) and *Washington v. Seattle School District* (1982).

The 9th Circuit reversed the district court's decision. Hsieh noted the simplistic and highly formalistic equal protection analysis in parsing the 9th Circuit's opinion. In Alice-in-Wonderland fashion, the three-judge panel found that what is up is down and what is down is up. For example, the court's discussion of equal protection analysis states, "[T]hat the Constitution *permits* the rare race- or gender-based preference hardly implies that the state cannot ban them . . . It would have been paradoxical to conclude that by adopting the Equal Protection Clause, the voters had violated it." In addition to critiquing the questionable equal protection analysis of the court, Hsieh assailed the ad hominem attacks in Judge O'Scannlain's opinion. For example, in response to the district court's determination that the proper framing of the issue "was whether the challenged enactment complies with our Constitution and Bill of Rights," Judge O'Scannlain retorted, "No doubt the district court is correct, at least in theory. Judges apply the law; they do not sua sponte thwart wills . . . A decision which permits one judge to block with the stroke of a pen what 4,736,180 state residents voted to enact as law tests the integrity of our constitutional democracy." On the district court's application of *Hunter* and *Seattle*, the appeals court offered more invective, stating, "Thankfully, the absence of any specific findings by the district court in this regard relieves us from having to reconcile 'the long line of cases understanding equal protection as a personal right.'" These and other

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tain kind of education? And so we continued exploring the other angles of this rough debate – what do we want from a legal education, what kind of lawyers should were produce for what purpose? Because we continue to ask the wrong questions – about who is qualified or not, we miss the perspective which critically examines a system of meritocracy obsessed with what Guinier calls "testocracy," a system which says more about what the test-takers were able to do (afford an education that produces certain test-taking abilities) than about what they will do in law school.

A reconstructed debate needs to identify the real conflicts between rich and poor; it needs to look at the market pressures driving us to think that education in one school is better than another when both are doing little to identify the real consumers of legal services or to meet the real legal needs of society. Are we linking up our talents as legal educators to a society which needs facilitators of self and community empowerment, rather than adversarial referees no one wants around for the trouble they make? Are we promoting our students to become lawyers who know how to mediate conflicts? Why haven't we looked at our role as gatekeepers of an educational system that consistently marginalizes the needy by using selection criteria that neither accurately predict law school performance nor select the best-qualified individuals for admission? As we ended this one-hour exercise, **Stephanie Wildman** reminded us of a final item – the need to expose privilege in a reconstructed debate about affirmative action. Until the people who benefit from the skewed system are willing to say they enjoy certain privileges and are willing to speak on behalf of those who don't, we can't create more visionary models for talking about racial or sexual justice and the revitalization of our educational institutions in the aftermath of the devastating *Hopwood* decision. Many of us walked out of that one-hour exercise empowered with a new set of tools for an old debate – responding to doubts about affirmative action by questioning the norm itself.

– Elvia R. Arriola
University of Texas School of Law

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examples led Hsieh to conclude that the 9th Circuit's opinion constituted "an appeal to broad political themes, a narrow and formalistic interpretation of the law, and judge bashing." She called for the exploration of new legal theories and strategies to mount the next successful challenge to the initiative.

The next panelist, **David White**, of Testing for the Public in Berkeley, California, gave an incisive analysis of the structural biases of standardized tests like the LSAT. As White explained, "Test bias occurs in a systematic way in the quiet part of the test – pretesting of questions. Testers look for consistency in results of the test. People who do best on the test should get the questions right. Minorities don't have enough votes to get it right." Wrong answers are those that do not comport with the testers' perceptions of reality, even if the questions are based on other peoples' experiences. Because a majority of whites take the test to determine the validity of their responses to the question, the bias is replicated at the actual test stage.

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White provided two examples of questions that have a cultural bias. In response to a question regarding a critical review of Doris Lessing's work, the "correct" characterization of the reviewer's attitude is "qualified admiration." The "wrong" answer is "grudging respect," which, perhaps not suprisingly, is the answer provided by a majority of women. The pattern repeats itself in a review of Miles Davis' music, where the "right" answer, that favored by white test-takers, is "qualified admiration," while most minority test-takers described the reviewer's attitude as "grudging respect."

As White illustrated, on standardized tests, "correctness is conformity, error is diversity." Thus, standardized tests continue to reveal the measure of institutionalized bias against women and people of color. He advised participants to remember that "academic standing and standardized testing are *not* the same." The LSAT and other standardized tests do not predict ability; however, they *are* reliable indicators of race, gender and class bias in U.S. society. Therefore, White concluded with the caution that we would create a false promise if we simply created more tests because standardized tests are a measure of diversity itself. Tests divide. According to White, "Tests can never provide a standard, they can only provide a difference."

"The traditional measures of LSAT scores and GPAs reward attendance at elite private institutions and are indicia of wealth, not ability."

Lastly, **Nina Perales**, of MALDEF, spoke about the aftermath of the *Hopwood* decision. The decision already has had a devastating impact on the enrollment of students of color at the University of Texas, where there has been an 80% decrease in minority admissions. In addition, Texas Attorney General **Dan Morales** has undertaken the rapid expansion of *Hopwood*'s application beyond admissions at the University of Texas to financial aid, scholarships and other areas. He also has construed the decision to apply beyond the University of Texas to all publicly funded schools. Furthermore, the Attorney General has informed the Board of Trustees that its members would be personally liable for failing to comply with the 5th Circuit's decision. Since these pronouncements, Perales notes that UT and other public schools are falling into line. Some schools have even changed their application forms or created tear-offs to eliminate any references to race. On a more heartening note, Perales apprised us that General Counsel **Norma Cantu** of the Department of Education's Office of Civil Rights wrote letters to the Texas governor, legislature and attorney general reminding them that *Bakke* was still the law of the land. Perales called for more legal challenges to *Hopwood*, either a facial challenge to admission criteria or a declaratory judgment against Morales'

opinion.

After a long, thought-provoking day, we made the transition to dinner. **Sharon Hom**, of CUNY, organized a Chinese banquet, another highlight of the conference. It, too, epitomized the theme of diversity while satisfying our hunger. In Chinese culture, each dish and the order in which each dish is served has special significance. The banquet shows appreciation for the guests' presence and allows the family or host to share the best that they have to offer with their guests. The variety of dishes ensures satisfaction for all tastes. We enjoyed a delicious meal from soup to fruit!

Banquet speaker **Nelson Diaz**, former General Counsel of HUD, spoke of his inroads to make HUD responsive to the needs of low and moderate income persons. Diaz, who was raised in Harlem, made his mark in the legal profession by becoming the first Latino member of the Pennsylvania bar. This was the first in a series of firsts for Diaz. He later become the first Latino

"... the South African constitution [is] the most advanced in the world in terms of its commitment to social justice."

member of the bench in Pennsylvania, and subsequently became general counsel of the Department of Housing and Urban Development under Secretary **Henry Cisneros**. Diaz paid homage to his mother, who arrived from Puerto Rico while expectant with him, raised him as a single parent, and made numerous sacrifices in order to provide a stable and encouraging environment for him. Diaz' speech was well received in the relaxed restaurant atmosphere and evoked much call and response from the group.

Saturday was primarily a working day for conference-goers. We began with the third plenary, "Constructing an Action Campaign." **Phoebe Haddon**, of Temple, discussed the promotion of progressive law school admission policies. She described Temple's longstanding admissions program which employs a variety of measures. She got our agenda-setting work underway by having participants list the qualities they found desirable in a progressive admissions policy. In addition, she provided several ideas for consideration, including developing feeder schools and cultivating a diverse student body for law school. A "Three-three-three Program" was suggested, in which the undergraduate program is truncated to overlap with early enrollment in law school. Many of these ideas resurfaced in small group sessions.

In a joint presentation, **Fran Ansley**, of Tennessee, and **Susan Gaeta**, a medical student at UC Davis, spoke about mobilizing communities. As we debated strategies to combat affirmative action assaults, Ansley warned against "anti-insurgency" rationales for maintaining affirmative action programs, that is, arguments that suggest that affirmative action is better than public protests. Such rationales are dangerous because they can result in a brain drain of people of color from community organizations to corporations and can serve to staff offices of institutional oppression like prosecutors' offices. Ansley called upon law schools to make more linkages between law students and their communities for their mutual empowerment. Gaeta noted that there was not a similar movement to increase diversity in the medical profession. She informed us that, while the UC-Davis entering medical school class of 1993 was 30% students of color, only two students of color are enrolled in the current entering class. These reductions will adversely affect the communities the are underserved by the medical profession. Gaeta emphasized our need to form coalitions across disciplines and to share resources to maintain diversity within the professions.

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Dean **Kristin B. Glen**, of CUNY, discussed the promotion of alternative law school curricula

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and legal services. She reminded participants that the issue "is not about us, but about the communities we serve." She drew upon her experience and perspectives from 15 years of judging on the trial and appellate level prior to becoming dean at CUNY. In developing legal curricula, we must ask, "What are the students going to do?" Glen cited a recent study of practitioners in Chicago

which found that most students were going to practice in smaller firms. "So why," Glen asked, "do we talk only about large firms?" This dissonance is reflected throughout our legal educational programs. "Do we really look at students and what they need to know? They don't need to know about the Rule against Perpetuities, but they do need to know about Medicare," declared Glen. Moreover, she observed that students walk out of one legal culture (law school) and into another (work/firm) with virtually no practical guidance. Glen argued that we must change the law school experience to prepare students for these realities.

At lunch on Saturday, **Derrick Bell**, of NYU, delivered a mock presidential address, with Bell as President of the United States. ("Finally, a Black President," someone at my lunch table exclaimed.) Bell used his presidential address to clarify the position of his alter ego President Clinton on recently enacted welfare laws. He provided a trenchant and humorous critique of President Clinton's explanation of the inexplicable and his defense of the indefensible. Although Bell's analysis only addressed the impact of welfare legislation within the African-American community, the new welfare policies have created added confusion and bias against low-income individuals and families in diverse communities. The unique ways in which racism and classism in the current welfare debate impact various communities must be understood specifically and in relationship to diversity goals in general in order to create stronger coalitions around these issues.

The working groups began to develop the action agenda for SALT's campaign to promote diversity within law schools and the broader legal profession. At the final plenary, members of the three coordinating task forces on Admissions; Law School, Curriculum, and Legal Practice; and Supporting Affirmative Action against Attacks reported their ideas for implementing a plan of action. Among the recommendations from the Admissions Task Force were the creation of an alternative guide for students in contrast to the narrow rating of guides like that of U.S. News & World Report; providing a fact sheet on discriminatory admissions criteria such as the LSAT; and developing a website in order to share information and stories of those who do well or who need support in law school. The Law School, Curriculum and Legal Practice Task Force recommended the development of a model law school curriculum for the delivery of services to underserved communities; critique of the bar examinations; maintaining student voices in the creation of law school curricula; and building alliances with other professional organizations on similar issues. The Task Force on Supporting Affirmative Action against Attacks recommended a SALT video project; creating a SALT media guide for generating op-ed pieces; disseminating stories about those who bring diverse back-

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grounds and perspectives to the legal profession; and providing litigation and legislative strategies and support.

Although the SALT/Haywood conference was prompted by a sense of loss and foreboding from recent defeats in national and state courts and legislatures, the overwhelming sentiment at the conference was hopefulness, commitment and celebration of struggle. There was "energy and synergy," as **Margaret Montoya**, of New Mexico, remarked. Everyone brought their best to the table. Discussions sometimes were heated. We disagreed. We were vulnerable. Yet we found strength in the variety of our visions, talents and perspectives. Everyone appreciated the significance of the moment, and no one underestimated the importance of the work before us. SALT has chosen to seize the moment to rechart the course on public policy about diversity. We need all of you to join us. ■

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dangers of California's Proposition 209. Break-out groups suggested such actions as marches, teach-ins and guerrilla theatre in the exhibit area of the convention as ways to convey our message and gain attention. The task force on political organizing was assigned the decision-making responsibility of targeting and organizing specific actions. The Board then authorized the committee and specific task forces to pursue identified activities and authorized the necessary financial support for these activities.

The Board discussed a three-year calendar for SALT activities based upon the notion that we sponsor certain regular events, such as the annual dinner and teaching conference, that can be planned at least a year in advance. It was felt that it was particularly vital for regular teaching conferences to be presented, whether on new themes or as re-runs of prior conferences held in new venues. When at all possible, the Board meetings will be held in conjunction with a SALT or other major legal education event so as to minimize additional expenditures by Board members. The next teaching conference will be held at American University on September 26 and 27 with the Board Meeting to be September 28, also at American. In January, we have several regular events at the AALS meeting. The annual Teaching Awards Banquet is regularly held on the night preceding the last day of the conference, and the Cover Study Group typically takes place on the night prior to the Teaching Awards Banquet. The Board also meets early during the AALS meeting to organize its activities. In addition, SALT has usually tried to organize a panel discussion, but it was thought that the political activity we are planning can take the place of a more scholarly program. The Spring 1998 Board meeting will be held in conjunction with the LatCrit conference to be held May 1 and 2 in a location yet to be announced. While SALT has always prided itself on its spontaneity and ability to react quickly to changing events, most Board members felt that the complexity of our organization and its activities requires a certain amount of prior planning.

On the subject of new business, President Linda Greene reported that CLEO has asked SALT to be a "constituent organization" and provide a representative for their Board of Directors. Linda volunteered to be the SALT representative on this Board. They are looking to us to help them re-think their organization and provide them with a blueprint for the future. We discussed ways of assisting CLEO with a certain amount of financial support, and the Board authorized to give $3,000 to CLEO for some general projects that would result in something tangible, such as a publication that would be available for distribution by law schools. Overall it was felt that an alliance with CLEO would be beneficial to both parties and that they have many activities that support SALT's own agenda.

In acknowledgment of the success of the "Haywood Conference," the SALT Board stressed its appreciation to all participants and organizers and urged all those in attendance and SALT members everywhere to remain involved and engaged in the theme of the conference to "affirm action and reconstruct merit". ■

Don't miss SALT's next teaching conference!

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