

Supreme Court journalist speaks about women in the law



Women play an important part on the U.S. Supreme Court, but exactly how they do it is open to interpretation, according to Dahlia Lithwick, a Supreme Court journalist for *Slate* magazine.

As the 28th Edith House Lecturer, Lithwick delivered a talk titled “Wise Women? What Women Bring to the Bench and How to Talk About It Like Gentlemen” and examined some recent occurrences involving the Supreme Court that explored the nebulous role gender plays on the nation’s highest court. The biggest event was the appointment and confirmation of Justice Sonia Sotomayor and the controversy it spawned.

“An entire career, a really interesting career, was boiled down to three words – wise, Latina woman,” Lithwick said. “I just want to be clear that, while I think it wasn’t the smartest word choice, if you look at the

context ... what she was saying is not that different from what I’m about to say, which is – look at the data. Does it show that women judge differently than men? What the data shows, believe or not, is that women judge differently,” she added. “And we can do with that what we want. We can explain it away or we can do what Sotomayor said and try to find out why women judge differently.

“But before we get into it, I just want to tell you that the most interesting thing for me is that no two people were more different than [former justices] Sandra Day O’Connor and Ruth Bader Ginsberg. So it is a terrible mistake to say that all women judges do x, because they don’t. They don’t all approach cases the same way, and they don’t think or write the same. That’s why I think it was bad to go back down to one woman on the court. When there were two, you could see that gender actually makes very little difference on the court. It just shows that we have two very different women on the court.”

As a journalist who’s written for *Elle*, *The New Republic*, *Newsweek*, *The New York Times*, *The Washington Post* and CNN.com, Lithwick had despairing words about the media’s role in driving the conversation about judges and the court. But looking ahead, she said the media circus around justice confirmations may be ending.

“I think that the America in which we care deeply about a wise, Latina woman is

ending. I really believe that we’re not going to be talking about this for much longer,” she said.

“This is a very impoverished dialogue about race and gender on the bench, but most of us aren’t having it.

“Most of us are working and living and know we don’t hate men and that judges aren’t just umpires. And we know that this is just a conversation we have every couple of years that boils everything down to demographics,” she added.

“As disheartening as some of these remarks have been, I think we’re headed in a tremendous direction – and as exciting as it is to have two women on the Supreme Court, imagine when there are three.”

The Edith House Lecture Series is hosted annually by the Women Law Students Association in honor of one of the first female graduates of Georgia Law. House, a native of Winder, Ga., was co-valedictorian of the law class of 1925, the first class to graduate women.

- MATT WEEKS, UGA COLUMNS SENIOR REPORTER

Watch Lithwick’s lecture online at www.law.uga.edu/lecture-series.



Georgia Law recognized for best value, superior law library and federal clerkship success

The *National Jurist* magazine included Georgia Law in its listing of “Best Value Law Schools” and named the Alexander Campbell King Law Library as one of the top law libraries in the nation.

In determining which schools were a “best value,” the magazine compared each institution’s tuition figures, employment statistics and state bar passage rates. The ranking placed the law school 16th in the nation, speaking to the quality of the education as well as the excellent return on investment provided by Georgia Law.

The magazine also placed Georgia Law’s library in the 26th slot out of nearly 200 libraries for its comfort, accessibility, convenience and availability of the latest technological tools.

Additionally, in a report compiled by *U.S. News & World Report* regarding which law schools are sending the largest proportions of their graduates on to judicial clerkships for federal judges, Georgia Law was listed as 10th best in the country (based on the Class of 2008 statistics).

The weight of the law on public officials' decision making



In Georgia Law's 105th Sibley Lecture, University of Virginia's Harrison Distinguished Professor of Law Frederick Schauer explored the question "When and how (if at all) does law constrain official action?"

Schauer suggested that officials comply with the legal system far less than we think. According to him, although Americans claim to live in a country where decisions are highly influenced by the law and courts, the reality may be quite different.

"Across the political spectrum, officials and public figures are politically and reputationally rewarded for doing the right thing even if it violates the law and punished for doing the wrong thing even when the law commands it," he said.

This idea of philosophical anarchism implies individuals should act on what they believe to be the best moral decision, regardless of illegality.

"Do the right thing, but when you have reached a conclusion about what this is, don't

"There is a calling that is higher than the calling of the law. It is the calling of justice."

depart from this view just because the law tells you to," he said.

Schauer referenced the actions of Roger Toussaint, head of the Transport Workers Union Local 100, who led his workers on strike in support of an ideal even though the strike was in violation of the law. At the time, individuals who were in favor of the strike were unfazed by its illegality.

In spite of potential repercussions, Toussaint said, "There is a calling that is higher than the calling of the law. It is the calling of justice."

In contrast, Socrates' belief system led the philosopher to refuse escape from punishment for a crime he did not commit because he believed he had a moral obligation to the law – even when he thought the law had made the wrong decision.

"To obey the law is to do what the law says, just because the law says it – not because it is necessarily right, not because it is what you would do anyway," Schauer said.

He described an event in 1957 in which President Dwight D. Eisenhower sent troops into Little Rock, Ark., to enforce the ruling in *Brown v. Board of Education*.

At the time, Eisenhower did not agree with the outcome of this case, yet he still

took actions to uphold it.

"Law is interesting and important from the perspective of the subject when it tells the subject to do something different from what he or she would otherwise have done," Schauer said.

Taking into consideration all arguments, Schauer reached the following hypothesis, "If, as an official, you take an action that turns out to be popularly accepted, no one will care that you have broken the law. If you take an action that turns out worse than you expected, the fact that it is unpopular and illegal will be worse than if it is just unpopular."

In addition to teaching courses at the University of Virginia, Schauer is the author of more than 200 articles appearing in legal and philosophic journals, and of books on freedom of speech and press, constitutional law and theory, evidence, legal reasoning and the philosophy of law. He is also a founding co-editor of the journal *Legal Theory*.

– CHRISTINA GRAFF

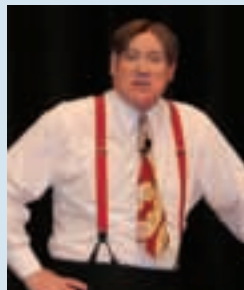
Watch Schauer's and Eskridge's lectures online at www.law.uga.edu/lecture-series.

Stay connected through RSS feeds



Stay up-to-date on news and events at Georgia Law by subscribing to one or both of the school's RSS feeds. The news feed features announcements from the Top News, In the News and Faculty Highlights sections of the Web site, while the events feed syncs with the law school's online calendar. Both can be found at www.law.uga.edu/news-events.

"Clarence Darrow's Search for Justice"



Last fall, Georgia Law hosted theatrical performances by award-winning actor Gary Anderson, who did a one-man portrayal of social justice attorney Clarence Darrow. As part of a national tour, Anderson brought to life the legendary lawyer who fought against the death penalty, social injustice, racism, conspiracy laws and civil liberties violations. He also explored a variety of issues surrounding Darrow's cases such as killing in self defense, legal ethics, creationism versus Darwinism, the credibility of witnesses and the freedom of speech.

Religion plays key role in social change



Exploring the question of whether equal rights for gay individuals should give way to liberties for religious people, William Eskridge Jr., Garver Professor of Jurisprudence at Yale Law School, delivered the 106th Sibley Lecture.

In his presentation titled “Noah’s Curse and Paul’s Admonition: Civil Rights, Religious Liberty, Gay Equality,” he examined connections between this query and one that was raised decades ago – should equal rights for people of color give way to the liberties of religious people?

Eskridge described the recent argument from religious groups that promoting homosexuality undermines God’s order, making the job of religious parents harder and leading to censorship of religious identity. These groups also argue that anti-discrimination laws force religious people to live among

homosexuals, who they consider “pollutions,” he added.

“Clashes between equality and liberty are not new,” Eskridge said. “They have parallels [with] race relations a generation ago.” According to the Yale scholar, there were many who believed racial integration should not be allowed because, similarly, it undermined God’s order and forced association.

The viewpoints of religions such as Judaism, Mormonism and Protestantism were discussed by Eskridge in regard to the rights of these minority groups. He quoted several distinct biblical passages from the Old and New Testaments that have been used to both defend and denounce slavery and homosexuality, proving that throughout the years religious groups have wavered on these controversial issues.

Church leaders at one point used scripture to protect their right to slaves, Eskridge said, yet later provided different passages when it was decided slavery was no longer socially acceptable. Similarly, he said religions have changed their point of view on homosexuality, though those in favor of gay marriage are still in the minority.

He added that “cultural norms will be translated into religious doctrine. As cultural norms change, religious doctrine will also change.

“Part of the power of the civil rights movement is that it had religion on both sides of the debate,” Eskridge said. “Social change and legal reforms, in my opinion, don’t stick until at least some major religious institutions abandon their opposition.”

Eskridge explained that the ultimate lesson learned from historical social reform is that there is a mutually constitutive relationship between church and state. For this reason, he believes religion should not be removed from gay marriage deliberation.

Accordingly, the courts should not create “door-closing rules” that would cause debate over this issue to end. “The Supreme Court will not, and should not, intervene and strike down marriage exclusions all over America. The discussion is not over,” he said, “and one of the barometers of the discussion is religion.”

Eskridge believes that religious leaders, even those of open and tolerant religions, are still in the middle of crucial conversations regarding discrimination issues and that these conversations must be able to continue.

“An important forum for gay rights is within religion and not just within cultural discourse and state discourse,” Eskridge said. “Religion can be both the repository of prejudices as well as an instrument for redemption.”

— CHRISTINA GRAFF

Established in 1964 by the Charles Loridans Foundation of Atlanta, the Sibley Lecture Series honors the late John A. Sibley, a 1911 graduate of the School of Law. The series hosts renowned legal academics known throughout the country for their exceptional scholarship.



Georgia Law revamps its Web site

The School of Law recently completed an extensive Web site redesign. With increased visual impact, new interactive features and a greater focus on marketing and student recruitment, the site is a great resource. One of the central features is a portal for prospective students, which customizes the information displayed based on the student’s interests. There is also a virtual tour as well as videos highlighting some of the law school’s many strengths. If you have not already done so, please take a second to explore the new site by visiting www.law.uga.edu.

11th service learning opportunity created at Georgia Law

Students at Georgia Law can now explore the practice of law from the perspective of an in-house counsel through the school's newest service learning offering, the Corporate Counsel Externship.

This course is designed to benefit not only students interested in an in-house career but also those who will work in law firms and deal with in-house counsels as their primary client contacts.

Those enrolled in the externship are placed with a corporate legal department to gain hands-on experience.

They also attend a weekly seminar to further develop skill sets such as interviewing, counseling, negotiation, legal analysis, problem solving and drafting.

Off-site organizations participating in the program include: Acuity Brands, Aflac, the American Cancer Society, AT&T Advertising Solutions, the Asbury Automotive Group, Atlanta Public Schools, Cox Communications, Crawford & Company, the Federal Reserve Bank, InterContinental Hotels Group, St. Mary's Hospital and Yahoo!, among others.

The course was created in conjunction with Georgia Law's recently formalized Business Law and Ethics Program.

It is headed by former National Service Industries President Carol E. Morgan (J.D.'79).

The purpose of this program is to ensure law students are prepared to advise business clients in a dynamic and global economy.

In addition to learning about the complex laws and regulations affecting business organizations, students participating in the Business Law and Ethics Program gain an understanding of business practices and principles as well as ethical issues confronting today's corporate leaders.



Annual Red Clay Conference explores tri-state water dispute

The ongoing dispute between Alabama, Florida and Georgia over water allocation from the Chattahoochee River was examined at the 22nd Annual Red Clay Conference.

Topics included the grass-roots movement by the Apalachicola-Chattahoochee-Flint Stakeholders to reach an agreement, an assessment of Atlanta's role in the dispute, an outlook on the environment in 50 years should no compromise be reached and alternative solutions to the conflict.

"The tri-state water dispute impacts our generation and generations to come," conference co-chair and second-year law student Kathleen E. Nelson said. "Because of this, we wanted to create a forum where practitioners, academics and citizens of the Southeast could come together and explore potential solutions."

Suggested resolutions by panelists ranged from using existing water supplies more efficiently and recycling wastewater into drinking water to pursuing a longstanding claim that the border with Tennessee is incorrectly drawn and should be moved north to include the Tennessee River.

Keynote speakers Joseph W. Dellapenna, a professor at the Villanova University School of Law, and J. Rutherford Seydel II, a partner at Davis, Pickren & Seydel, also examined the issues in their respective presentations titled "The Tri-State Water Dispute: Is There a Way Forward?" and "Are We Tapped Out Yet? Think Globally, Act Locally."

Other participants included representatives from the Tri Rivers Waterway Development Association, the Lake Lanier Association and Apalachicola Riverkeeper; attorneys specializing in a variety of environmental law areas; and environmental policy, renewable energy and water resource scholars.

"By taking so many different views into account, this conference provided a full examination of the tri-state water allocation dispute and hopefully laid the groundwork for forward progress in this critical area of sustainability," Nelson said.

The Red Clay Conference is entirely student organized by members of Georgia Law's Environmental Law Association. It was established to increase public awareness of environmental issues through a series of educational presentations and open forum discussions. ELA's mission is to advance sound environmental policy, encourage discussion and raise awareness among attorneys and lawmakers here in Georgia and throughout the Southeast.