

Focus on Diversity: Is U.Va. Doing Enough?

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A Call for Diversification.

The Coalition for Diversity used the vehicle of a nationwide strike to protest lack of curricular and faculty diversity at law schools across the country and to show the administration that diversity at U.Va. Law School is a major student concern. In addition to addressing the faculty and administration, the Coalition felt that the activities on the day of the strike raised student consciousness of, and drew state attention to, the problems caused by a homogeneous law faculty and curriculum. While the issues are not new, the Coalition hopes that the close to 400 signatures on a petition to Dean Jackson coupled with the many visible student protesters will serve as a catalyst for the opening of lines of communication among the students, the administration, and the faculty.

George Braxton, a second-year law student and the Regional Director of BLSA, was one of the organizers of last Thursday's strike and rally. He notes that the Coalition and the movement for diversity is not a matter of quotas or raw numbers, but rather a search for a true commitment on the part of the faculty and the administration to diversification. In addition, he emphasized that increased diversity will improve the quality of education at, and therefore national perception and ranking of, the Law School.

The goal of the Coalition is to promote full diversity. Three elements of this, according to Coalition co-founder Anne Glick, are the hiring of more minority faculty, the hiring of faculty with diverse legal ideologies, and the provision of more clinical opportunities. Contrary to recent faculty statements, the hiring of a Critical Legal Scholar is not the overriding goal of the student protesters. Nor do the students agree that the twin goals of ideological diversity and minority representation cannot be addressed simultaneously. The Coalition is working toward the achievement of both goals with the overall objective of full diversity.

Some members of the Coalition are among the students who will not be working in public service positions next year. These students are quick to point out that U.Va. Law cannot bear the full blame for individual job placement; they also reject administration attempts to place the full blame on the students in claiming that employment options and choices reflect a lack of student concern about diversity and clinical opportunities. While the administration does in some ways aid students in the pursuit of diverse interests, Glick contends that the exposure is limited; students exploring such opportunities must be self-starters. Braxton agrees that he finds it very difficult to make the necessary public interest contacts while at the Law School. The Law School facilitates placement with large corporate law firms far more than it does public interest or minority firms.

In addition, Glick argues, the school has an attitude of "We don't teach you how to get to the courthouse" that interferes with the ability of the students to learn practical lawyering skills. Montana Cole, a co-founder of the Coalition, agrees that clinical opportunities are sorely lacking at the University. The Coalition rejects the "explanation" by the faculty that the Charlottesville-Albemarle area has no need for the Law School to provide pro bono legal services. To the contrary, the Coalition contends that these opportunities do exist, with a need so great that Legal Aid, due to insufficient personnel, has to turn away people in desperate need of legal assistance. Both the students and the community would benefit from more clinical opportunities.

The students point to recent faculty comments as evidentiary of the lack of communication and the overriding lack of diversity. A number of faculty members, according to Cole, used their classrooms as "pulpits from which they misrepresented the issues before a captive audience" when discussing the strike beforehand. Other members referred

to faculty statements against the strike as a "cowardly use of soap boxes" because little or no time was allowed for rebuttal or correction of misstatements. The Coalition argues that the faculty who chose to discuss the strike had a responsibility to allow both sides to be heard and to allow students to make a choice. This is also one of the strongest arguments that the Coalition puts forth in favor of diversity - the Law School has the responsibility to present different perspectives "from the horse's mouth" which are not filtered through the words of a disagreeing professor. And the students have a right to choose - to choose to gain practical experience, to choose to follow or oppose a given school of legal thought, even to choose to follow the Law and Economics viewpoint. There is no choice when few perspectives are adequately addressed.

Aside from the in-class communication problems, the Coalition wants to work to correct the breakdown in communication between the students and the administration. As one example of such problems, the students point to a letter that was sent to Dean Jackson in April 1988 while he was still at Harvard addressing the same concerns about diversity. Dean Jackson never responded to the students - whether he responded at all is unknown. More recently, BLSA tried to arrange a meeting with Jackson in connection with the petition. After three weeks with no response from Jackson, the students contacted him again. He made an appointment with them for the day of the rally, after demanding a list of the students who would be present and limiting their numbers to three or four. Soon after, Jackson questioned whether there was a link between the BLSA meeting and the coalition - and then he cancelled the meeting. On Monday, April 9, after the strike, the students received a terse note informing them that a meeting was arranged for Tuesday, April 10. The Coalition points to this runaround as demonstrative of the systemic ignoring of students. They advocate a more "open door" policy enabling students to speak with the Dean more freely.

On the matter of diversity in hiring, the Coalition is looking for more accessibility to information. The students are concerned about the hiring process and would like involvement beyond allowing members of the Law Review to dine with prospective faculty. While the faculty may have to work with the hired professors for a long time, the students' legal careers are shaped by these professors, and hence students have a valid interest in who is hired. There is also confusion over the hiring process itself and its standards; a statement by the administration that someone's work is "not rigorous enough" does not alleviate student concerns. The students would like to see a more clearly delineated decision-making process. Without violating the confidentiality of some of the information, student involvement to the fullest extent possible would help ensure that the faculty, administration, and students are working together with a full understanding of each other's concerns.

The Coalition for Diversity is concerned that the miscommunication surrounding the strike has led to an unnecessary polarization. The students emphasize that all of the parties are on the same side. Everyone wants to improve the quality of the educational environment at the Law School. According to Braxton, "The bottom line is to make U.Va. a better school, more suitable for everyone. It has to do with a good, well rounded education." The students are concerned about the defensive stance of the faculty at this point and its possible interference with the initiation of an ongoing dialogue.

From the Coalition's perspective, the next step is to create an apparatus for the voicing of concerns. Glick notes the "administration should know that they can't sweep this issue under the table. It is not going away. There is no shame in acting on student concerns."

Scott Vance

... Good-faith Efforts

Despite the misapprehensions of many law students, the Law School Faculty Hiring Committee has put forth a great deal of effort in the assembly of a diverse faculty, and the hiring trends demonstrate considerable success in this regard. The major problem which brought about last week's "Rally for Diversity" has been an unfortunate lack of communications between faculty and students. "There has been little communication between students and faculty with regard to hiring other than on a small scale, such as the SBA Committee on Diversity," said Law School Dean Thomas Jackson, who sits on the ten-member Hiring Committee. "Many students have misconceptions about the hiring process as a result."

One of the most prevalent of these misconceptions is that faculty hiring is a matter for administration. "The faculty as a whole, and not the administration, determine who will join them," commented Professor Robert Scott, who chairs the Hiring Committee this year. "The members of the faculty feel that hiring is one of their most important jobs." By definition, then, since the faculty is the body responsible for voting on the admission of new professors, any administrative role is subordinate to their final determination. Furthermore, insofar as professors themselves make up the Hiring Committee and will be colleagues of new faculty members, hiring is institutionally a matter primarily affecting them and resulting from their efforts.

The hiring process itself is very involved and labor-intensive. The pool of those considered includes not only applicants but also individuals the Hiring Committee seeks out, whether they be professors, practitioners, or otherwise. The credentials and scholarship of each candidate are rigorously reviewed. There is a subcommittee on minority hiring, and, until recently, there was also one on the hiring of women. Dean Jackson explained that the latter subcommittee was discontinued because its function had become assimilated into the workings of the Hiring Committee, as evidenced by the hiring of five women out of the last twelve new professors.

The other primary misunderstanding of the hiring process is that the faculty simply has made no effort to create diversity. "We have maintained a high level of commitment to the hiring of a diverse faculty," said Professor Scott. "We are in a constant process of replacing faculty, and it becomes a matter of fighting the law of small numbers." This "law of small numbers" means that the faculty turnover is slow enough that only two or so new faculty are added each year. "Even over a ten-year period, only 20-25% of the faculty will turn over; many of the professors stay for a long term, especially when they are tenured," added Dean Jackson.

A faculty member responding to critics of the hiring process would most likely point to the fact that, out of the last twelve faculty hired, five have been women and two have been black. "Instead of looking at absolute numbers, it is more useful to look at the trend line," noted Dean Jackson. "We can't change the past fact that, until a few years ago, the law faculty was all white men. Given the fact that we only hire several professors a year, it will naturally take time to catch up to have a faculty reflecting the proportion of women and minorities entering the field."

The search for intellectual diversity likewise has presented serious issues about the hiring process. The Hiring Committee has in fact made offers to two Critical Legal Studies (CLS) scholars since the beginning of last year; one was declined, while the other remains outstanding. Charlottesville itself presents a number of professional disabilities which serve as constraints in attracting new professors. For example, one feminist scholar about whom the Hiring Committee is "very excited" will be joining the faculty for the 1991-2 academic year; she has, however, a husband who practices in Washington,

D.C., and two children, so the move will not be easy on the family. "The family with two working adults presents particular problems in coming to a small market such as Charlottesville," noted Dean Jackson; such a situation would work to the disadvantage of both men and women professors. Furthermore, the local rural environment causes concerns for potential single professors, including another feminist scholar who has an offer outstanding.

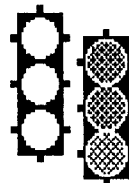
Two methods the Hiring Committee has used to combat the disadvantages of being in a small town are casting their nets wide and giving prospective faculty freer rein to defer acceptance of a position. By contacting not only known applicants but also professors and practitioners who might be interested in a faculty position, the Committee hopes to find and attract talent before other schools have the chance to do so. In addition, allowing an incoming professor the opportunity to defer entry for a year allows for more personal and professional planning for the move to Charlottesville.

Furthermore, perhaps too much emphasis has been placed on the obtaining of CLS scholars as the only method of increasing intellectual diversity in the faculty. "The number of young CLS scholars has really dried up recently," Professor Scott commented. "We are going after them, but there just aren't as many as there were several years ago. And trying to attract established stars from other schools brings a very low yield." In contrast, one academic area in which U.Va. Law has been able to hire new professors has been jurisprudence; two professors with degrees in law and in philosophy will be joining the faculty next year, one tenure-track and one visiting. Furthermore, the Hiring Committee is trying to lure the rising tide of feminist scholars to Virginia. "In the entry-level market, the feminists as an offshoot of CLS have increased dramatically in numbers in recent years," noted Dean Jackson. "We have of course had feminist scholarship here already, but we are also trying to attract the growing numbers of young feminist scholars."

The lack of communication about the aforementioned processes and concerns reflects itself in the fact that, for the first time in years, no student organizations or individuals participated this year in the identification of or accumulation of information on prospective faculty. Student input often reveals factors, such as excellent teaching or relations with students, which do not generally appear in the typical research into scholarship and academic reputation. Professor Scott and Dean Jackson encourage this direct involvement in the hiring process, for it can produce candidates who might otherwise be missed and serves as a link of understanding between students and faculty.

In short, the Hiring Committee engages in a "very dynamic process," as Professor Scott termed it, in never resting upon its laurels. As Dean Jackson stated, "There are absolutely no quotas on any dimensions," so the faculty is always on the lookout for talented professors or scholars, regardless of sex, race, or ideology. In conclusion, in its search for diversity, the Hiring Committee must combat the disadvantages of a small-town environment and a slow turnover rate as well as competition from other schools in addition to adjusting to the changing academic composition of the entry-level market. Given these constraints, the Committee has demonstrated remarkable vigor and success in its recent and ongoing hiring.

Point...



...Counterpoint